

# [ PRESIDENTIAL DECREE NO. 442, May 01, 1974 ]

## **A DECREE INSTITUTING A LABOR CODE, THEREBY REVISING AND CONSOLIDATING LABOR AND SOCIAL LAWS TO AFFORD PROTECTION TO LABOR, PROMOTE EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND INSURE INDUSTRIAL PEACE BASED ON SOCIAL JUSTICE**

### **PRELIMINARY TITLE**

#### Chapter I

##### General Provisions

**ARTICLE 1.** *Name of Decree.* — This Decree shall be known as the "Labor Code of the Philippines."

**ART. 2.** *Date of Effectivity.* - This Code shall take effect six months after its promulgation.

**ART. 3.** *Declaration of Basic Policy.* — The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work.

**ART. 4.** *Construction in Favor of Labor.* — All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor.

**ART. 5.** *Rules and Regulations.* — The Department of Labor and other government agencies charged with the administration and enforcement of this Code or any of its parts shall promulgate the necessary implementing rules and regulations. Such rules and regulations shall become effective fifteen (15) days after announcement of their adoption in newspapers of general circulation.

**ART. 6.** *Applicability to Agricultural Workers.* — In addition to the rights conferred upon them by Republic Act Numbered Thirty-eight Hundred and Forty-four, as amended, otherwise known as the Code of Agrarian Reforms of the Philippines, agricultural workers shall enjoy the rights and benefits granted by this Code to nonagricultural workers.

#### Chapter II

##### Emancipation of Tenants

**ART. 7.** *Statement of Objectives.* — Inasmuch as the old concept of land ownership by a few has spawned valid and legitimate grievances that gave rise to violent conflict and social tension and the redress of such legitimate grievances being one of the fundamental objectives of the New Society, it has become imperative to start reformation with the emancipation of the tiller of the soil from his bondage.

**ART. 8.** *Transfer of Lands to Tenant Workers.* - Being a vital part of the labor force, tenant-farmers on private agricultural lands primarily devoted to rice and corn under

a system of share crop or lease tenancy whether classified as landed estate or not shall be deemed owner of a portion constituting a family-size farm of five (5) hectares if not irrigated and three (3) hectares if irrigated.

In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it.

**ART. 9. *Determination of Land Value.*** For the purpose of determining the cost of the land to be transferred to the tenant-farmer, the value of the land shall be equivalent to two and a half (2 1/2) times the average harvest of three (3) normal crop years.

The total cost of the land, including interest at the rate of six (6) *per centum* per annum, shall be paid by the tenant in fifteen (15) equal amortizations.

In case of default, the amortizations due shall be paid by the farmers' cooperative having a right of recourse against him.

The Government shall guaranty such amortizations with shares of stock in government-owned and government-controlled corporations.

**ART. 10. *Conditions of Ownership.*** - No title to the land owned by the tenant-farmers shall be actually issued to a tenant-farmer unless and until the tenant has become a full-fledged member of a duly recognized farmers' cooperative.

Title to the land acquired pursuant to Presidential Decree No. 27 or the land Reform Program of the Government shall not be transferable except by hereditary-succession or to the Government in accordance with the provisions of this Code, the Code of Agrarian Reforms and other existing laws and regulations.

**ART. 11. *Implementing Agency.*** — The Department of Agrarian Reform shall promulgate the necessary rules and regulations to implement the provisions of this Chapter.

## **BOOK I**

### **PRE EMPLOYMENT**

**ART. 12. *Statement of Objectives.*** It is the policy of the State —

- a. To promote and maintain a state of full employment through improved manpower training, allocation and utilization;
- b. To protect every citizen desiring to work locally or overseas by securing for him the best possible terms and conditions of employment;
- c. To facilitate a free choice of available employment by persons seeking work in conformity with the national interest;
- d. To facilitate and regulate the movement of workers in conformity with the national interest;
- e. To regulate the employment of nonresident aliens;
- f. To strengthen the network of public employment offices and to undertake the phasing out of private fee-charging employment agencies; and
- g. To insure careful selection of Filipino workers for overseas employment in order to protect the good name of the Philippines abroad.

### **Title I**

#### ***RECRUITMENT AND PLACEMENT OF WORKERS***

## Chapter 1

### General Provisions

**ART. 13. *Definition of Terms.*** — (a) "Private fee-charging employment agency" means any individual or entity engaged in the business of recruitment and placement of workers for a fee, whether the fee is charged from the workers or from the employers or both.

- b. "Private non-fee-charging employment agency" refers to any individual or entity engaged in the recruitment and placement of workers free of charge, whether from the workers or from the employers or both.
- c. "Recruitment" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, including referrals, contact services, promising employment or advertising for employment locally or abroad whether for profit or not: *Provided*, That whenever two or more persons are in any manner promised or offered employment for a fee, the individual or entity making such offer or promise shall be deemed engaged in recruitment.
- d. "Worker" or "Employee" includes any individual employed by an employer or any person hired to perform service of any kind for a valuable consideration, including household or domestic helpers and crew members of vessels or seamen.
- e. "Immigrant worker" means any person who works in a foreign country by virtue of an immigrant visa or resident permit as distinguished from a work permit or working visa.
- f. "License" means a document issued to an individual or entity by the Department of Labor authorizing such individual or entity to operate private fee-charging employment agency.
- g. "Authority" refers to the document issued to any person or entity by the Department of Labor authorizing such person or entity to operate a private non-fee-charging employment agency.
- h. "Seamen" includes all persons employed on any vessel engaged in maritime navigation.

**ART. 14. *Employment Promotion.*** — The Secretary of Labor shall have the power and authority to:

- a. Organize and establish new employment offices in addition to the existing employment offices under the Department of Labor as the need arises;
- b. Organize and establish a nationwide job clearance and information system to inform applicants registering with a particular employment office of job opportunities in other parts of the country as well as job opportunities abroad;
- c. Develop and organize programs that will facilitate occupational, industrial and geographical mobility of labor and provide assistance in the relocation of workers from one area to another; and
- d. Require any person, establishment, organization or institution to submit such employment information as may be prescribed by the Secretary of Labor.

**ART. 15. *Power to Phase Out.*** — The Department of Labor shall phase out within four (4) years from the effectivity of this Code the operation of all private fee-charging employment agencies, including those engaged in the overseas

recruitment and placement of individuals for personal services or for the crew of a vessel.

Upon the completion of such phaseout, no person or entity shall directly or indirectly engage, for profit or any pecuniary or material advantage, in any recruitment or placement activity. Non-fee-charging employment agencies or placement services undertaken by schools or by civic or charitable organizations or by employers for their own use may continue under such rules and regulations as may be promulgated by the Secretary of Labor.

**ART. 16.** *Over-seas Employment Development Board, Creation of.* — An Overseas Employment Development Board is hereby created to undertake a systematic program for overseas employment of Filipino workers, other than seamen, in excess of domestic needs and to protect their rights to fair and equitable employment practices.

It shall seek to:

- a. Meet the increasing demand for trained and competent Filipino workers in foreign countries;
- b. Generate foreign exchange from the earnings of Filipinos employed under the program;
- c. Promote the employment of Filipinos under government-to-government arrangement;
- d. Secure better terms and conditions of employment of Filipino workers overseas; and
- e. Promote the development of the skills and careful selection of employment of Filipino workers for overseas employment.

The Board shall be attached to the Department of Labor for policy and program coordination and for the efficient conduct of its duties.

**ART. 17.** *Composition of Overseas Employment Development Board.* — The Board shall be composed of:

The Secretary of Labor as Chairman and a representative each of the Department of National Defense, the Department of Foreign Affairs, the Central Bank and the Department of Justice, as members.

The Board shall be assisted by a Secretariat headed by an Executive Director. The Executive Director shall be appointed by the President of the Philippines upon recommendation of the Secretary of Labor who shall appoint the members of the Secretariat. The Executive Director and members of the Secretariat shall be exempt from the provisions of laws, rules and regulations of the Wage and Position Classification Office except clerical and janitorial services.

The Executive Director shall be a Filipino citizen with sufficient experience in manpower administration, including overseas employment activities.

The Executive Director shall receive an annual salary of P40,000 and a commutable representation and transportation allowance of P500 a month.

The Auditor General shall appoint his representative to the Board to audit its accounts in accordance with auditing laws and pertinent rules and regulations.

The Chairman and all members of the Board shall each receive a per diem of P100 for their attendance of every meeting of the Board: *Provided*, That where the representative of an ex officio member attends a meeting in behalf of the latter, such representative shall be entitled to receive the per diem.

**ART. 18. Board Authorized to Collect Fees.** —The Board shall have the power to impose and collect fees from workers and employers concerned or both, the proceeds of which shall accrue to a special fund to be used exclusively for the promotion of the objectives of the Board.

**ART. 19. Board to Issue Rules and Regulations.** —The Board shall issue appropriate rules and regulations to carry out its functions.

**ART. 20. National Seamen Board, Creation of.** — There is hereby created a body to be known as a National Seamen Board.

It shall:

- a. Establish and maintain a comprehensive seamen training program;
- b. Provide free placement services for seamen;
- c. Obtain the best possible terms and conditions of employment for seamen;
- d. Secure full implementation of the employment contracts of seamen; and
- e. Maintain a complete registry of all seamen.

**ART. 21. Composition of National Seamen Board.** — The Board shall be attached to the Department of Labor for policy and program coordination and shall be composed of: the Secretary of Labor as Chairman, the Commandant of the Philippine Coast Guard, and a representative of each of the Department of Foreign Affairs, a national seafarers organization and a national shipping association, as members.

The Chairman and all members of the Board shall each receive a per diem of F100 for their attendance of every meeting of the Board: *Provided*, That where the representative of the *ex officio* member attends a meeting in behalf of the latter, such representative shall be entitled to receive the per diem.

The Board shall be assisted by a Secretariat headed by an Executive Director. The Executive Director and members of the Secretariat shall be exempt from the provisions of laws, rules and regulations of the Wage and Position Classification Office except clerical and janitorial services.

The Executive Director shall be a Filipino citizen with sufficient experience in manpower administration, including overseas employment activities.

The Executive Director shall receive an annual salary of P24,000 and a commutable representation and transportation allowance of P500 a month.

The Auditor General shall appoint his representative to the Board to audit its accounts in accordance with auditing laws and pertinent rules and regulations.

**ART. 22. Board Authorized to Collect Fees.** — The Board shall have the power to impose and collect fees from workers and employers concerned or both, the proceeds of which shall accrue to a special fund to be used exclusively for the promotion of the objectives of the Board.