

[Presidential Decree 442]

Labor Code of the Philippines

Book Three
CONDITIONS OF EMPLOYMENT

Title I
WORKING CONDITIONS
AND REST PERIODS

Chapter VI
ADMINISTRATION AND ENFORCEMENT

ART. 128. *Visitorial and enforcement power.* — (a) The Secretary of Labor and Employment or his duly authorized representatives, including labor regulation officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

(b) Notwithstanding the provisions of Articles 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The Secretary or his duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the labor employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection. (As amended by Republic Act No. 7730, June 2, 1994).

An order issued by the duly authorized representative of the Secretary of Labor and Employment under this Article may be appealed to the latter. In case said order involves a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Secretary of Labor and Employment in the amount equivalent to the monetary award in the order appealed from. (As amended by Republic Act No. 7730, June 2, 1994).

(c) The Secretary of Labor and Employment may likewise order stoppage of work or suspension of operations of any unit or department of an establishment when non-compliance with the law or implementing rules and regulations poses grave and imminent danger to the health and safety of workers in the workplace. Within twenty-four hours, a hearing shall be conducted to determine whether an order for the stoppage of work or suspension of operations shall be lifted or not. In case the violation is attributable to the fault of the employer, he shall pay the employees concerned their salaries or wages during the period of such stoppage of work or suspension of operation.

(d) It shall be unlawful for any person or entity to obstruct, impede, delay or otherwise render ineffective the orders of the Secretary of Labor and Employment or his duly authorized representatives issued pursuant to the authority granted under this Article, and no inferior court or entity shall issue temporary or permanent injunction or restraining order or otherwise assume jurisdiction over any case involving the enforcement orders issued in accordance with this Article.

(e) Any government employee found guilty of violation of, or abuse of authority, under this Article shall, after appropriate administrative investigation, be subject to summary dismissal from the service.

(f) The Secretary of Labor and Employment may, by appropriate regulations, require employers to keep and maintain such employment records as may be necessary in aid of his visitorial and enforcement powers under this Code.

ART. 129. *Recovery of wages, simple money claims and other benefits.* — Upon complaint of any interested party, the Regional Director of the Department of Labor and Employment or any of the duly authorized hearing officers of the Department is empowered, through summary proceeding and after due notice, to hear and decide any matter involving the recovery of wages and other monetary claims and benefits, including legal interest, owing to an employee or person employed in domestic or household service or househelper under this Code, arising from employer-employee relations: *Provided*, That such complaint does not include a claim for reinstatement: *Provided further*, That the aggregate money claims of each employee or househelper does not exceed Five thousand pesos (P5,000.00). The Regional Director or hearing officer shall decide or resolve the complaint within thirty (30) calendar days from the date of the filing of the same. Any sum thus recovered on behalf of any employee or househelper pursuant to this Article shall be held in a special deposit account by, and shall be paid on order of, the Secretary of Labor and Employment or the Regional Director directly to the employee or househelper concerned. Any such sum not paid to the employee or househelper because he cannot be located after diligent and reasonable effort to locate him within a period of three (3) years, shall be held as a special fund of the Department of Labor and Employment to be used exclusively for the amelioration and benefit of workers.

Any decision or resolution of the Regional Director or hearing officer pursuant to this provision may be appealed on the same grounds provided in Article 223 of this Code,

within five (5) calendar days from receipt of a copy of said decision or resolution, to the National Labor Relations Commission which shall resolve the appeal within ten (10) calendar days from the submission of the last pleading required or allowed under its rules.

The Secretary of Labor and Employment or his duly authorized representative may supervise the payment of unpaid wages and other monetary claims and benefits, including legal interest, found owing to any employee or househelper under this Code. (As amended by Section 2, Republic Act No. 6715, March 21, 1989).

Title III
WORKING CONDITIONS FOR
SPECIAL GROUPS OF EMPLOYEES

Chapter I
EMPLOYMENT OF WOMEN

ART. 130. *Nightwork prohibition.* — No woman, regardless of age, shall be employed or permitted or suffered to work, with or without compensation:

(a) In any industrial undertaking or branch thereof between ten o'clock at night and six o'clock in the morning of the following day; or

(b) In any commercial or non-industrial undertaking or branch thereof, other than agricultural, between midnight and six o'clock in the morning of the following day; or

(c) In any agricultural undertaking at nighttime unless she is given a period of rest of not less than nine (9) consecutive hours.

ART. 131. *Exceptions.* — The prohibitions prescribed by the preceding Article shall not apply in any of the following cases:

(a) In cases of actual or impending emergencies caused by serious accident, fire, flood, typhoon, earthquake, epidemic or other disasters or calamity, to prevent loss of life or property, or in cases of *force majeure* or imminent danger to public safety;

(b) In case of urgent work to be performed on machineries, equipment or installation, to avoid serious loss which the employer would otherwise suffer;

(c) Where the work is necessary to prevent serious loss of perishable goods;

(d) Where the woman employee holds a responsible position of managerial or technical nature, or where the woman employee has been engaged to provide health and welfare services;

(e) Where the nature of the work requires the manual skill and dexterity of women workers and the same cannot be performed with equal efficiency by male workers;

(f) Where the women employees are immediate members of the family operating the establishment or undertaking; and

(g) Under other analogous cases exempted by the Secretary of Labor and Employment in appropriate regulations.

ART. 132. *Facilities for women.* — The Secretary of Labor and Employment shall establish standards that will ensure the safety and health of women employees. In appropriate cases, he shall, by regulations, require any employer to:

(a) Provide seats proper for women and permit them to use such seats when they are free from work and during working hours, provided they can perform their duties in this position without detriment to efficiency;

(b) To establish separate toilet rooms and lavatories for men and women and provide at least a dressing room for women;

(c) To establish a nursery in a workplace for the benefit of the women employees therein; and

(d) To determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like.

ART. 133. *Maternity leave benefits.* — (a) Every employer shall grant to any pregnant woman employee who has rendered an aggregate service of at least six (6) months for the last twelve (12) months, maternity leave of at least two (2) weeks prior to the expected date of delivery and another four (4) weeks after normal delivery or abortion with full pay based on her regular or average weekly wages. The employer may require from any woman employee applying for maternity leave the production of a medical certificate stating that delivery will probably take place within two weeks.

(b) The maternity leave shall be extended without pay on account of illness medically certified to arise out of the pregnancy, delivery, abortion or miscarriage, which renders the woman unfit for work, unless she has earned unused leave credits from which such extended leave may be charged.

(c) The maternity leave provided in this Article shall be paid by the employer only for the first four (4) deliveries by a woman employee after the effectivity of this Code.

ART. 134. *Family planning services; incentives for family planning.* — (a) Establishments which are required by law to maintain a clinic or infirmary shall provide free family planning services to their employees which shall include, but not be limited to, the application or use of contraceptive pills and intrauterine devices.

(b) In coordination with other agencies of the government engaged in the promotion of family planning, the Department of Labor and Employment shall develop and prescribe incentive bonus schemes to encourage family planning among female workers in any establishment or enterprise.

ART. 135. *Discrimination prohibited.* — It shall be unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex.

The following are acts of discrimination:

(a) Payment of a lesser compensation, including wage, salary or other form of remuneration and fringe benefits, to a female employees as against a male employee, for work of equal value; and

(b) Favoring a male employee over a female employee with respect to promotion, training opportunities, study and scholarship grants solely on account of their sexes.

Criminal liability for the willful commission of any unlawful act as provided in this Article or any violation of the rules and regulations issued pursuant to Section 2 hereof shall be penalized as provided in Articles 288 and 289 of this Code: *Provided*, That the institution of any criminal action under this provision shall not bar the aggrieved employee from filing an entirely separate and distinct action for money claims, which may include claims for damages and other affirmative reliefs. The actions hereby authorized shall proceed independently of each other. (As amended by Republic Act No. 6725, May 12, 1989).

ART. 136. *Stipulation against marriage.* — It shall be unlawful for an employer to require as a condition of employment or continuation of employment that a woman employee shall not get married, or to stipulate expressly or tacitly that upon getting married, a woman employee shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by reason of her marriage.

ART. 137. *Prohibited acts.* — (a) It shall be unlawful for any employer:

(1) To deny any woman employee the benefits provided for in this Chapter or to discharge any woman employed by him for the purpose of preventing her from enjoying any of the benefits provided under this Code.

(2) To discharge such woman on account of her pregnancy, or while on leave or in confinement due to her pregnancy;

(3) To discharge or refuse the admission of such woman upon returning to her work for fear that she may again be pregnant.

ART. 138. *Classification of certain women workers* . — Any woman who is permitted or suffered to work, with or without compensation, in any night club, cocktail lounge, massage clinic, bar or similar establishments under the effective control or supervision of the employer for a substantial period of time as determined by the Secretary of Labor and Employment, shall be considered as an employee of such establishment for purposes of labor and social legislation.

Signed: May 1, 1974