

THE PERTINENT PROVISIONS OF THE LABOR CODE OF THE PHILIPPINES, AS AMENDED BY REPUBLIC ACT NO. 6715, ON GRIEVANCE SETTLEMENT AND VOLUNTARY ARBITRATION

REPUBLIC ACT NO. 6715
EFFECTIVE 21 MARCH 1989

AN ACT TO EXTEND PROTECTION TO LABOR, STRENGTHEN THE CONSTITUTIONAL RIGHTS OF WORKERS TO SELF ORGANIZATION, COLLECTIVE BARGAINING AND PEACEFUL CONCERTED ACTIVITIES, FOSTER INDUSTRIAL PEACE AND HARMONY, PROMOTE THE PREFERENTIAL USE OF VOLUNTARY MODES OF SETTLING LABOR DISPUTES, AND REORGANIZE THE NATIONAL LABOR RELATIONS COMMISSION, AMENDING FOR THESE PURPOSES CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES. APPROPRIATING FUNDS THEREFORE, AND FOR THE OTHER PURPOSES.

Art. 221. Declaration of Policy.-A. It is the policy of the State:

- (a) To promote and emphasize the primacy of free collective bargaining and negotiation, including voluntary arbitration, mediation and conciliation, as modes of labor or industrial disputes;

Art. 212. Definitions. (a) 'Commission' means the National Labor Relations Commission or any of its division, as the case may be, as provided under this Code.

- "(b)" Bureau means the Bureau of Labor Relations and/or the Labor Relations Divisions in the regional offices established under Presidential Decree No. 1, in the Department of Labor.
- "(c)" 'Board' means the National Conciliation and Mediation Board established under Executive Order No. 126.
- "(d)" 'Council' means the Tripartite Voluntary Arbitration Advisory Council established under Executive Order No. 126, as amended.
- "(e)" 'Employer' includes any person acting in the interest of an employer, directly or indirectly. The term shall not include any labor organization or any of its officers or agent except when acting as employer.

- "(f)" 'Employee' includes any person in the employ of an employer. The term shall not be limited to the employees of a particular employer, unless this code so explicitly states. It shall include any individual whose work has ceased as a result of or in connection with any current labor dispute or because of any unfair labor practice if he

has not obtained any other substantially equivalent and regular employment.

- “(g) ‘Labor Organization’ means any union or association of employees which exist in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment.
- “(h) ‘Legitimate labor organization’ means any labor organization duly registered with the Department of Labor and Employment, and includes any branch or local thereof
- “(i) ‘Company union’ means labor organization whose formation, function or administration has been assisted by any act defined as unfair labor practice by this Code.
- “(j) ‘Bargaining representative’ means a legitimate labor organization or any officer or agent of such organization whether or not employed by the employer.
- “(k) ‘Unfair labor practice’ means any unfair labor practice as expressly defined by this Code.
- “(l) ‘Labor dispute’ includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.
- “(m) ‘Managerial employee’ is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-out, recall, discharge, assign or discipline employees. Supervisory employees are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment. All employees not falling within any of the above definitions are considered rank-and-file employees for purposes of this Book.

- “(n) ‘Voluntary Arbitrator’ means any person accredited by the Board as such, or any person named or designated in the collective bargaining agreement by the parties to act as their voluntary arbitrator, or one chosen with or without the assistance of the National Conciliation and Mediation Board, pursuant to a selection procedure agreed upon in the collective bargaining agreement, or any official that may be authorized by the Secretary of Labor and Employment to act as voluntary arbitrator upon the written request and agreement of the parties to a labor dispute.
- “(o) ‘Strike’ means any temporary stoppage of work by the concerted action of employees as a result of industrial or labor dispute.

- “(p) ‘Lockout’ means the temporary refusal of an employer to furnish work as result of an industrial or labor dispute.
- “(q) ‘Internal union dispute’ includes all disputes or grievances arising from any violation of or disagreement over any provision of the constitution and by-laws of a union, including any violation of the rights and conditions of union membership provided for in this Code.
- “(r) ‘Strike-breaker’ means any person who obstructs, impedes, or interferes with force, violence, violence coercion, threats or intimidation of any peaceful by employee during any labor controversy affecting wages, hours or conditions of work or in the exercise of the right of self-organization or collective bargaining.
- “(s) Strike area’ means the establishment, warehouses, depots, plants or offices, including the sites or premises used as run-away shops, of the employer struck against, as well as the immediate vicinity actually used by picketing strikers in moving to and fro before all points of entrance to and exit from said establishment.

Art. 217. Jurisdiction of Labor Arbiters and the Commission.

- (a) Except as otherwise provided under this Code the Labor Arbiters shall original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:
 - (1) Unfair labor practice cases;
 - (2) Termination disputes;
 - (3) If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;
 - (4) Claims for actual, moral exemplary and other forms of damages arising from the employer-employee relations;
 - (5) Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and
 - (6) Except claims for employees compensation, social security, medicare and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00), whether or not accompanied with a claim for reinstatement.
- (b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.
- (c) Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or

enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements.

Art. 224. Execution of decisions, orders, or awards.

- (a) The Secretary of Labor Employment or any Regional Department Director, the Commission or any Labor Arbiter or Med-Arbiter, or xxx the voluntary arbitrator or panel of voluntary arbitrators may, motu proprio or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory, requiring a sheriff or a duly deputized officer to execute or enforce final decisions, orders or awards of the Secretary of Labor and Employment or Regional Director, the Commission or the Labor Arbiter or Med-Arbiter, or voluntary arbitrator or panel of voluntary arbitrators. In any case, it shall be the duty of the responsible officer to separately furnish immediately the counsels of record and the parties with copies of said decisions, orders or awards. Failure to comply with the duty prescribed herein shall subject such responsible officer to appropriate administrative sanctions.
- (b) The Secretary of Labor and Employment, and the Chairman of the Commission may designate special sheriffs and take any measure

under existing laws to ensure compliance with their decisions, orders or awards and those of Labor Arbiters and voluntary arbitrators or panel of voluntary arbitrators, including the imposition of administrative fines which shall not be less than five hundred pesos (P500.00) nor more than ten thousand pesos (P10,000.00).

Art. 231. Registry of unions and file of collective agreements.

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The Bureau or Regional Office shall assess the employer for every collective bargaining agreement a registration fee of not less than one thousand pesos (P1,000.00) or in any amount as may be deemed appropriate and necessary by the Secretary of Labor and Employment, for the effective and efficient administration of the voluntary arbitration program. Any amount collected under this provision shall accrue to the Special Voluntary Arbitration Fund.

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Art. 250. Procedure in Collective Bargaining

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The following procedure shall be observed in collective bargaining:

- (a) When party desires to negotiate an agreement, it shall serve a written notice upon the other party with a statement of its proposals. The other party shall make a reply thereto not later than

proposal. The other party shall make a reply thereto not later than ten (10) calendar days from receipt for such notice.

- (b) Should differences arise on the basis of such notice and reply, either party may request for a conference which shall begin not later than ten (10) calendar days from the date of request;
- (c) If the dispute is not settled, the Board shall intervene upon request of either or both parties or at its own initiative and immediately call the parties to conciliation meetings. The Board shall have the power to issue subpoenas requiring the attendance of the parties to such meetings. It shall be the duty of the parties to participate fully and promptly in the conciliation meetings the Board may call;
- (d) During the conciliation proceedings in the Board, the parties are prohibited from doing any act which may disrupt or impede the early settlement of the disputes; and

- (e) The Board shall exert all efforts to settle disputes amicably and encourage the parties to submit their case to a voluntary arbitrator.”

Art. 260. Grievance Machinery and Voluntary Arbitration.

The parties to a collective bargaining agreement shall include therein provisions that will ensure the mutual observance of its terms and conditions. They shall establish a machinery for the adjustment and resolution of grievances arising from the interpretation or implementation of their collective bargaining agreement and those arising from the interpretation or enforcement of company personnel policies.

All grievances submitted to the grievance machinery which are not settled within seven (7) days from the date of its submission shall automatically be referred to voluntary arbitration prescribed in the collective bargaining agreement.

For this purpose, parties to a collective bargaining agreement shall name and designate in advance a voluntary arbitrator or panel of voluntary arbitrators, or include in the agreement a procedure for the selection of such voluntary arbitrator or panel of voluntary arbitrators, preferably from the listing of qualified voluntary arbitrators duly accredited by the Board. In case the parties fail to select a voluntary arbitrator or panel of voluntary arbitrators, as may be necessary, pursuant to the selection procedure agreed upon in the collective bargaining agreement, which shall act with the same force and effect as if the voluntary arbitrator or panel of voluntary arbitrators has been selected by the parties as described above.

Art. 261. Jurisdiction of voluntary arbitrators or panel of voluntary arbitrators.

The voluntary arbitrator or panel of voluntary arbitrators shall have original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the collective bargaining agreement and those arising from the interpretation or enforcement of company personnel

and those arising from the interpretation or enforcement of company personnel policies referred to in the immediately preceding Article. Accordingly, violations of a collective bargaining agreement, except those which are gross in character, shall no longer be treated as unfair labor practice and shall be resolved as grievances under the collective bargaining agreement. For purposes of this Article, gross violation of a collective bargaining agreement shall mean flagrant and/or malicious refusal to comply with the economic provision of such agreement.

The Commission, its Regional Offices and the Regional Directors of the Department of Labor and Employment shall not entertain disputes, grievances or matters under the exclusive and original jurisdiction of the voluntary arbitrator or panel of voluntary arbitrators and shall immediately dispose and refer the same to the grievance machinery or voluntary arbitration provided in the collective bargaining agreement.

Art. 262. Jurisdiction over other labor disputes.

The voluntary arbitrator or panel of voluntary arbitrators upon agreement of the parties, shall also hear and decide all other labor disputes including unfair labor practices and bargaining deadlocks.

Art. 262-A. Procedures.

The voluntary arbitrator or panel of voluntary arbitrators shall have the power to hold hearings, receive evidences and take whatever action is necessary to resolve the issue or issues subject of the dispute, including efforts to effect a voluntary settlement between parties.

All parties to the dispute shall be entitled to attend the arbitration proceedings. The attendance of any third party or the exclusion of any witness from the proceedings shall be determined by the voluntary arbitrator or panel of arbitrators. Hearings may be adjourned for cause or upon agreement by the parties.

Unless the parties agree otherwise, it shall be mandatory for the voluntary arbitrator or panel of arbitrators to render award or decision within twenty (20) calendar days from the date of submission of the dispute to voluntary arbitration.

The award or decision of the voluntary arbitrator or panel of voluntary arbitrators shall contain the facts and the law on which it is based. It shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties.

Upon motion of any interested party, the voluntary arbitrator or panel of voluntary arbitrators or the Labor Arbiter in the region where the movant resides, in case of the absence or incapacity of the voluntary arbitrator or panel of voluntary arbitrators for any reason, may issue a writ of execution requiring either the sheriff of the Commission or regular courts or any public official whom the parties may designate in the submission agreement to execute the final decision order or award.

Art. 262-B. Cost of voluntary arbitration and voluntary arbitrator's fee.

The parties to a collective bargaining agreement shall provide therein a proportionate sharing scheme on the cost of voluntary arbitration including the voluntary arbitrator's fee. The fixing of fee of voluntary arbitrator or panel of voluntary arbitrators, whether shouldered wholly by the parties or subsidized by the Special Voluntary Arbitration Fund, shall take into account the following factors:

- (a) Nature of the case;
- (b) Time consumed in hearing the case;
- (c) Professional standing of the voluntary arbitrator;
- (d) Capacity to pay of the parties; and
- (e) Fees provided for in the Revised Rules of Court.

Art. 263. Strikes, picketing and lockouts.

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- (f) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure compliance with these provisions as well as with such orders as he may issue to enforce the same.

In line with the national concern for and the highest respect accorded to the right of patients to life and health, strikes and lockouts in hospitals, clinics and similar medical institutions shall to every extent possible, be avoided, and all serious efforts, not only by labor and management but government as well, be exhausted to substantially minimize, if not prevent, their adverse effects on such life and health, through the exercise, however legitimate, by labor of its rights to strike and by management to lockout. In labor disputes adversely affecting the continued operations of such

striking union or locking-out employer to provide and maintain an effective skeletal workforce of medical and other health personnel, whose movement and services shall be unhampered and unrestricted, as are necessary to ensure the proper and adequate protection of the life and health of its patients, most especially emergency cases, for the duration of the strike or lockout. In such cases, therefore, the Secretary of Labor and Employment may immediately assume, within twenty-four (24) hours from knowledge of the occurrence of such a strike or lockout, jurisdiction over the same or certify it to the Commission for compulsory arbitration. For this purpose, the contending parties are strictly enjoined to comply with such orders, prohibitions and/or injunctions as are issued by the Secretary of Labor and Employment or the Commission, under pain of immediate disciplinary action, including dismissal or loss of employment status or payment by the locking-out employer of back wages, damages and other affirmative relief, even criminal prosecution against or both of them.

The foregoing notwithstanding, the President of the Philippines shall not be precluded from determining the industries that, in his opinion, are indispensable to the national interest, and from intervening at any time and assuming jurisdiction over labor dispute in such industries in order to settle or terminate the same.

- (h) Before or at any stage of the compulsory arbitration process, the parties may opt to submit their dispute to voluntary arbitration.
- (i) The Secretary of Labor and Employment, the Commission or the voluntary arbitrator or panel of voluntary arbitration shall decide or resolve the dispute within thirty (30) calendar days from the date of the assumption of jurisdiction or the certification or submission of the dispute, as the case may be. The decision of the President, the Secretary of Labor and Employment, the Commission or the voluntary arbitrator or panel of voluntary arbitrators shall be final and executory ten (10) calendar days after receipt thereof by the parties.

Art. 277. Miscellaneous Provisions.

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- (g) a Special Voluntary Arbitration Fund is hereby established in the Board to subsidize the cost of voluntary arbitration in cases involving the interpretation and implementation of the collective

bargaining agreement, including the arbitrator's fee, and for such other related purposes to promote and develop voluntary arbitration. The Board shall administer the Special Voluntary Arbitration Fund in accordance with the guidelines it may adopt upon the recommendation of the Council, which guidelines shall be subject to the approval of the Secretary of Labor and Employment. Continuing funds needed for this purpose in the initial yearly amount of fifteen million pesos (P15,000,000.00) shall be provided in the 1989 and subsequent annual General Appropriations Acts.

The amount of subsidy in appropriate cases shall be determined by the Board in accordance with established guidelines issued by it upon the recommendation of the Council.

The fund shall also be utilized for the operation of the Council, the training and education of voluntary arbitrators, and the promotion and development of a comprehensive voluntary arbitration program.