

LABOR, AGRARIAN AND SOCIAL LEGISLATION

VOLUME I

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B. RECRUITMENT FOR OVERSEAS WORK LAW

(Act No. 2486, as amended by Acts Nos.
2541 and 3148)

AN ACT FIXING A TAX UPON EVERY PERSON OR ENTITY ENGAGED IN RECRUITING OR CONTRACTING LABORERS IN THE PHILIPPINES, AND AMENDING SUBSECTION (a) OF SECTION FIFTY-THREE OF ACT NUMBERED TWENTY-THREE HUNDRED AND THIRTY-NINE.

SECTION 1. Every person or entity who, directly or indirectly, shall engage in the Philippine Islands in contracting, enlisting, recruiting, or shipment of laborers, shall pay annually, as a tax, to the provincial treasurer of each one of the provinces where laborers are contracted or recruited, and if in Manila, to the Collector of Internal Revenue, the sum of five hundred pesos, which fund shall be subject to the conditions expressed in the following sections: *Provided*, That when such contracting, enlistment, recruiting, or shipment of laborers is made in representation of a corporation or person, said tax shall be paid by the same and not by each one of its agents or employees: *Provided, further*, That nothing contained in this Act shall be interpreted or construed in such manner as to permit any contract or recruiting of individuals of non-Christian tribes for the purpose of exhibiting same in the Philippines or in any other foreign country, which is hereby declared prohibited and unlawful: *And provided finally*, That nothing contained in this Act shall be applied to persons who contract individuals for other personal service or to make up the crew of a vessel.

Certain Acts Not Covered.

The acts of contracting, enlisting, recruiting and shipping of laborers covered by the law are those constituting the *business* of procuring or supplying workers for some ultimate users thereof, such as producers or manufacturers abroad, who, instead of sending here their officials to hire laborers, find it more convenient to depend on local contractors or recruiters who undertake, for a fee, to supply them with said laborers. Those who now and then contract workers for their own use, occasionally and as incidental to their principal business, are not subject to the license fee provided for in the law.¹

SEC. 2. Any company or entity engaged in the industry mentioned in the next preceding section shall be obliged to furnish free passage upon the return to these Islands of the laborer or laborers contracted, as soon as the time stipulated in the contract made with him shall have expired in case they shall have complied with the terms and conditions of the contract on their part to be kept and performed, or in case they shall have later become unfit for work on account of physical incapacity.

SEC. 3. Any person or entity referred to by this Act shall annually provide himself, before engaging in the industry referred to by this law, with a license issued by the Director of the Bureau of Labor and approved by the Secretary of Commerce and Police, in which shall be expressed the name of the province or name of the provinces where he is to exercise such industry. For the issuance of said license the Director of the Bureau of Labor shall collect the sum of six thousand pesos annually which shall be covered into the Insular Treasury.

License Needed.

Every person covered by the Act is supposed to pay *tax* annually in accordance with the provisions of Sec. 1

¹ Op. in a letter to Cong. Inocencio Ferrer dated Sept. 7, 1959, Sec. of Justice; italics author's.

thereof. Sec. 3, above, further requires said person to secure a *license* from the "Director of the Bureau of Labor". Under present laws, the license is now issued by the Office of Manpower Services of the Department of Labor.²

SEC. 4. The Governor-General, with the advice and consent of the Philippine Senate, shall appoint a commissioner for service in the Territory of Hawaii, whose duty it shall be to receive and hear the complaints made by Filipino laborers, to arrange the differences between the latter and their employers, to see to the compliance of the contracts made with said laborers, and to look after their interests in general, making every six months a report of the condition thereof to the Governor-General. Said commissioner shall receive an annual compensation of eight thousand pesos.

SEC. 5. All of the contracts made with laborers shall be supervised by the Director of Labor, whose duty it shall be to permit no contracting of minors under fifteen years, and minors of eighteen years without the written consent of their parents or guardians.

Supervision of Contracts.

All of the contracts made with laborers shall now be supervised by the Chief of Manpower Services, subject to the approval of the Secretary of Labor.³

SEC. 6. Any violation of this Act shall be punished by a fine of not to exceed two thousand pesos or by imprisonment for not more than two years, or by both fine and imprisonment in the discretion of the court.

SEC. 7. Subsection (a) of section fifty-three of Act Numbered Twenty-three hundred and thirty-nine is hereby amended to read as follows:

"(a) Customhouse and immigration brokers, eighty pesos."

² Ex. Or. No. 218, s. 1956, implementing Reorg. Plan No. 20-A.
³ *Id.*

SEC. 8. This Act shall take effect thirty days from the date of its passage.

Enacted, February 5, 1915.

Act No. 2541 which amended Sec. 7 of Act No. 2486 took effect from Jan. 1, 1916 to Dec. 31, 1917.

Act No. 3148 which amended Sec. 4 of Act No. 2486 took effect on March 6, 1924.

A. RULES AND REGULATIONS IMPLEMENTING ACT NO. 2486.

By virtue of the authority vested in the Commissioner of the National Employment Service⁴ by Section 4 of Republic Act No. 761 and pursuant to the provisions thereof, the following rules and regulations implementing Act No. 2486 are hereby promulgated. All previous rules, regulations and orders contrary to the provisions hereof are hereby repealed.

ARTICLE I — DEFINITIONS

Section 1. — As used in the following, unless repugnant to the subject or context, the following expressions have the meaning hereby assigned to them:

(1) "PERSON OR ENTITY" shall mean any individual, company, firm, partnership, association or corporation.

(2) "LABORER" is any person hired to perform labor of any kind. This term shall not include those who render personal services.

(3) "CONTRACTING LABORERS" means the taking in of laborers to enter into a free but enforceable employment contract.

(4) "RECRUITING LABORERS" means the process of enlisting laborers with promise or information of existing available employment.

(5) "ENLISTING LABORERS" is synonymous with recruiting.

(6) "SHIPMENT OF LABORERS" means the sending of laborers from the place of hire to the place of employment. This includes transfer of laborers by land, by water or by air transportation.

⁴The National Employment Service (NES) has been abolished and its functions have been transferred to the Office of Manpower Services (OMS) under a Chief. See comments on page 98, *infra*.

(7) "LICENSEE" is any person or entity licensed by competent authority to engage in the business of contracting, recruiting, enlisting or shipment of laborers.

(8) "RECRUITER" is any person or entity licensed by competent authority and authorized by the employer to recruit, enlist, contract or ship laborers.

ARTICLE II — STATEMENT OF POLICY

Section 2. — It is the policy of this Office to:

(1) Standardize the management and operation of the fee-charging employment agencies to effect maximum efficiency of the service;

(2) Reduce to the minimum illegal practices of recruitment and placement of laborers; and

(3) Prevent the exploitation of laborers especially those in overseas jobs through the supervision of their job contracts.

ARTICLE III — REQUISITES FOR THE ISSUANCE OF A LICENSE

Section 3. — Any person or entity who wishes to apply for a license to engage in recruiting, enlisting, contracting or shipment of laborers, shall file with the National Employment Service his application giving the following data:

(1) Name, age, civil status and nationality;

(2) Residence; and

(3) The province or provinces where he intends to engage in the said business.

Section 4. — The application must be accompanied by:

(1) A sum of SIX THOUSAND PESOS (P6,000.00) for license fee;

(2) Affidavits of two reputable citizens who have known the applicant for at least five years that he is of good moral character;

(3) If the applicant is a corporation, a certified copy of the articles of incorporation and by-laws of the corporation; and

(4) If the applicant is a partnership, a certified copy of the partnership agreement.

Section 5. — The application shall be received by the Fee-charging Employment Agencies Section and shall be registered in a record book (NES/fees Form No. XVII,

Appendix) provided for the purpose. A notice of application (NES/fees Form No. XVIII, Appendix) shall be posted on the NES Bulletin Board for two weeks from the date of the filing of the application to allow the public to read it. If objections are received during the two-week waiting period, same shall be heard by the Commissioner whose decision on the matter shall only be appealable to the Secretary of Labor. If there are enough grounds for denying the application, a notice of disapproval (NES/fees Form No. XIX, Appendix) shall be sent to the applicant. If the application is in order and all the requirements have been complied with, a notice of approval (NES/fees Form No. XX, Appendix) shall be sent to the applicant. A license (NES/fees Form No. XXI, Appendix) bearing the signature of the Commissioner and the seal of this Office and duly approved by the Secretary of Labor shall be prepared and issued by the Commissioner.

ARTICLE IV — GENERAL PROVISIONS

Section 6.— Each license shall take effect on the first day of the month in which it is issued and shall expire on the first day of the same month of the following year.

Section 7.— It shall be unlawful for any licensee to recruit or contract laborers in the Philippines without first submitting to the NES the following:

- (1) An appointment by the employer stating the authority given;
- (2) Job requisitions issued by the employer which shall contain the schedule of salaries, kind of employment, description of work, qualifications of workers required and terms of employment; and
- (3) Copies of the employment contract which will only be legal if approved by the Commissioner of the NES.

Section 8.— All contracts made with the laborers shall contain the following stipulations:

- (1) Salary — monthly, daily or by the hour;
- (2) Board and lodging;
- (3) Compensation for injury, sickness or death;
- (4) Transportation from the place of hire to the place of employment and back; and
- (5) Venue of action.

Section 9. — It is prohibited to recruit non-Christians for the purpose of exhibiting them either in the Philippines or in other foreign countries.

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Section 10.—It shall be unlawful to contract minors below fifteen years of age.

Section 11.—It shall be unlawful to contract a minor below twenty-one (21) years of age without the written consent of the parent, guardian or person in charge.

Section 12.—Any minor who declares himself to be above fifteen years of age but whose physical appearance does not show such age shall be required to present his birth certificate together with the consent of his parent, guardian or person in charge. In case such record is destroyed, an affidavit to the effect that the same was destroyed and giving the right age of the minor shall be executed by the parent, guardian or person in charge before any official authorized to administer oaths.

Section 13.—The provisions of the foregoing section shall also apply to those minors who declare that they are twenty-one years of age although it is apparent from their physical appearances that they are below twenty-one years old.

Section 14.—Under Act No. 2486 and the rules and regulations implementing it the following are exempted:

- (1) Persons recruited for domestic services; and
- (2) Crew of a vessel.

Section 15.—The general provisions, Chapter V, Sections 65, 66 and 67 of the Code of Rules and Regulations implementing Act No. 3957, shall also be a part of these rules and regulations.

Section 16.—Effectivity. The foregoing rules and regulations shall take effect upon approval by the Secretary of Labor.

APPROVED: OCTOBER 7, 1953.

DEPARTMENT ORDER NO. 10⁵
(Series of 1966)

The interest of the public service so requiring and in order to insure the expeditious processing and disposition of contracts or agreements for overseas employment of Filipino nationals while affording them the fullest benefits and protection under existing labor legislations, policies

⁵ Issued on Aug. 26, 1966, by the Sec. of Labor.

and regulations and preventing their undue exploitation while in employment abroad, the following rules and procedures are hereby promulgated for compliance by all concerned:

1. All persons, companies, firms, agencies and entities, domestic or foreign, who desire to contract, enlist, recruit, ship, utilize or employ Filipino workers or employees for overseas work, either as plain recruiters or for their own use, shall make known their intention in writing or file the necessary application, together with a copy of an employment contract form, direct to the Office of the Secretary of Labor for processing and approval.

2. All such persons, companies, firms, agencies and entities whose applications have been approved, shall file the necessary request together with the individual employment contracts of Filipinos whom they have contracted to work abroad, direct to the Office of the Secretary of Labor for processing and verification prior to its transmittal to the Department of Foreign Affairs or the Bureau of Immigration for passport and documentation purposes and other necessary action.

3. All other employment contracts of Filipinos for overseas employment not covered above shall also be submitted for processing and verification in accordance with the procedure outlined in the preceding paragraph.

4. The Office of Manpower Services, this Department, shall be furnished a copy of all applications, employment contracts and the action taken thereon for records and statistics purposes and to serve as the basis of any appropriate recommendation in line with the objectives of this Order.

5. The Chief of the Office of Manpower Services is hereby directed to forward to the Office of the Secretary within 24 hours from receipt of this Order all applications and contracts for overseas employment which are pending in the said Office on the date of the effectivity of this Order as well as all such applications and contracts which it may later receive.

6. All applications and contracts treated herein shall

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be acted upon without delay and all interested parties are advised that hand-carrying and follow-up of these papers are not allowed. They are, however, requested to report to this Office any case of discourtesy, anomaly or undue delay in this regard.

This Order takes effect immediately and supersedes all such orders, circulars, memoranda, rules or regulations that are inconsistent herewith.