

# eCodal - BOOK TWO Human Resources Development Program

## TITLE I National Manpower Development Program

### CHAPTER I National Policies and Administrative Machinery for Their Implementation

ARTICLE 43. *Statement of Objective.* — It is the objective of this Title to develop human resources, establish training institutions, and formulate such plans and programs as will ensure efficient allocation, development and utilization of the nation's manpower and thereby promote employment and accelerate economic and social growth.

ARTICLE 44. *Definitions.* — As used in this Title:

- (a) "*Manpower*" shall mean that portion of the nation's population which has actual or potential capability to contribute directly to the production of goods and services.
- (b) "*Entrepreneurship*" shall mean training for self-employment or assisting individual or small industries within the purview of this Title.

ARTICLE 45. *National Manpower and Youth Council; Composition.* — To carry out the objectives of this Title, the National Manpower and Youth Council, which is attached to the Department of Labor for policy and program coordination and hereinafter referred to as the Council, shall be composed of the Secretary of Labor as *ex-officio* chairman, the Secretary of Education and Culture as *ex-officio* vice-chairman, and as *ex-officio* members, the Secretary of Economic Planning, the Secretary of Natural Resources, the Chairman of the Civil Service Commission, the Secretary of Social Welfare, the Secretary of Local Government, the Secretary of Science and Technology, the Secretary of Trade and Industry and the Director-General of the Council. The Director General shall have no vote.

In addition, the President shall appoint the following members from the private sector: two (2) representatives of national organizations of employers; two (2) representatives of national workers' organizations; and one representative of national family and youth organizations, each for a term of three (3) years.

ARTICLE 46. *National Manpower Plan.* — The Council shall formulate a long-term national manpower plan for the optimum allocation, development and utilization of manpower for employment, entrepreneurship and economic and social growth. This manpower plan shall, after adoption by the Council, be updated annually and submitted to the President for his approval. Thereafter, it shall be the controlling plan for the development of manpower resources for the entire country in accordance with the national development

plan. The Council shall call upon any agency of the Government or the private sector to assist in this effort.

ARTICLE 47. *National Manpower Skills Center.* — The Council shall establish a National Manpower Skills Center and regional and local training centers for the purpose of promoting the development of skills. The centers shall be administered and operated under such rules and regulations as may be established by the Council.

ARTICLE 48. *Establishment and Formulation of Skills Standards.* — There shall be national skills standards for industry trades to be established by the Council in consultation with employers' and workers' organizations and appropriate government authorities. The Council shall thereafter administer the national skills standards.

ARTICLE 49. *Administration of Training Programs.* — The Council shall provide, through the Secretariat, instructor training, entrepreneurship development, training in vocations, trades and other fields of employment, and assist any employer or organization in training schemes designed to attain its objectives under rules and regulations which the Council shall establish for this purpose.

The Council shall exercise, through the Secretariat, authority and jurisdiction over, and administer, on-going technical assistance programs and/or grants-in-aid for manpower and youth development including those which may be entered into between the Government of the Philippines and international and foreign organizations and nations, as well as persons and organizations in the Philippines.

In order to integrate the national manpower development efforts, all manpower training schemes as provided for in this Code shall be coordinated with the Council, particularly those having to do with the setting of skills standards. For this purpose, existing manpower training programs in the government and in the private sector shall be reported to the Council which may regulate such programs to make them conform with national development programs.

This Article shall not include apprentices, learners and handicapped workers as governed by appropriate provisions of this Code.

ARTICLE 50. *Industry Boards.* — The Council shall establish industry boards to assist in the establishment of manpower development schemes, trades and skills standards and such other functions as will provide direct participation of employers and workers in the fulfillment of the Council's objectives, in accordance with guidelines to be established by the Council and in consultation with the National Economic and Development Authority.

The maintenance and operations of the industry boards shall be financed through a funding scheme under such rates of fees and manners of collection and disbursements as may be determined by the Council.

ARTICLE 51. *Employment Service Training Functions.* — The Council shall utilize the employment service of the Department of Labor for the placement of its graduates. The Bureau of Employment Services shall render assistance to the Council in the measurement of unemployment and underemployment, conduct of local manpower resource surveys and occupational studies including an inventory of the labor force, establishment and maintenance without charge of a national register of technicians who have successfully completed a training program under this Act, and skilled manpower including its publication, maintenance of an adequate and up-to-date system of employment information.

ARTICLE 52. *Incentive Scheme.* — An additional deduction from taxable income of one-half (1/2) of the value of labor training expenses incurred for development programs shall be granted to the person or enterprise concerned provided that such development programs, other than apprenticeship, are approved by the Council and the deduction does not exceed ten percent (10%) of the direct labor wage.

There shall be a review of the said scheme two years after its implementation.

ARTICLE 53. *Council Secretariat.* — The Council shall have a Secretariat headed by a Director-General who shall be assisted by a Deputy Director-General, both of whom shall be career administrators appointed by the President of the Philippines on recommendation of the Secretary of Labor. The Secretariat shall be under the administrative supervision of the Secretary of Labor and shall have an Office of Manpower Planning and Development, an Office of Vocational Preparation, a National Manpower Skills Center, regional manpower development offices and such other offices as may be necessary.

The Director-General shall have the rank and emoluments of an undersecretary and shall serve for a term of ten (10) years. The Executive-Directors of the Office of Manpower Planning and Development, the Office of Vocational Preparation and the National Manpower Skills Center shall have the rank and emoluments of a bureau director and shall be subject to Civil Service Law, rules and regulations. The Director-General, Deputy Director-General and Executive Directors shall be natural-born citizens, between thirty and fifty years of age at the time of appointment, with a master's degree or its equivalent, and experience in national planning and development of human resources. The Executive Director of the National Manpower Skills Center shall, in addition to the foregoing qualifications, have undergone training in center management. Executive Directors shall be appointed by the President on the recommendations of the Secretary of Labor and Employment.

The Director-General shall appoint such personnel necessary to carry out the objectives, policies and functions of the Council subject to Civil Service rules. The regular professional and technical personnel shall be exempt from WAPCO rules and regulations.

The Secretariat shall have the following functions and responsibilities:

1. To prepare and recommend the manpower plan for approval by the Council;
2. To recommend allocation of resources for the implementation of the manpower plan as approved by the Council;
3. To carry out the manpower plan as the implementing arm of the Council;
4. To effect the efficient performance of the functions of the Council and the achievement of the objectives of this Title;
5. To determine specific allocation of resources for the projects to be undertaken pursuant to approved manpower plans;
6. To submit to the Council periodic reports on progress and accomplishment of work programs;
7. To prepare for approval by the Council an annual report to the President on plans, programs and projects on manpower and out-of-school youth development;
8. To enter into agreements to implement approved plans and programs and perform any and all such acts as will fulfill the objectives of this Code as well as ensure the efficient performance of the functions of the Council; and
9. To perform such other functions as may be authorized by the Council.

ARTICLE 54. *Regional Manpower Development Offices.* — The Council shall create regional manpower development offices which shall determine the manpower needs of the industry, agriculture and other sectors of the economy within their respective jurisdictions; provide the Council's central planners with the data for updating the national manpower plan; recommend programs for the regional level agencies engaged in manpower and youth development within the policies formulated by the Council; and administer and supervise Secretariat training programs within the region and perform such other functions as may be authorized by the Council.

ARTICLE 55. *Consultants and Technical Assistance, Publication, and Research.* — In pursuing its objectives, the Council is authorized to set aside a portion of its appropriation for the hiring of the services of qualified consultants, and/or private organizations for research work and publication. It shall avail itself of the services of the Government as may be required.

ARTICLE 56. *Rules and Regulations.* — The Council shall define its broad functions and issue appropriate rules and regulations necessary to implement the provision of this Code.

## **TITLE II Training and Employment of Special Workers**

### **CHAPTER I Apprentices**

ARTICLE 57. *Statement of Objectives.* — This Title aims:

1. To help meet the demand of the economy for trained manpower;
2. To establish a national apprenticeship program through the participation of employers, workers and government and non-government agencies; and
3. To establish apprenticeship standards for the protection of apprentices.

ARTICLE 58. *Definition of Terms.* — As used in this Title:

- (a) "*Apprenticeship*" means practical training on the job supplemented by related theoretical instruction.
- (b) An "*apprentice*" is a worker who is covered by a written apprenticeship agreement with an individual employer or any of the entities recognized under this Chapter.
- (c) An "*apprenticeable occupation*" means any trade, form of employment or occupation which requires more than three (3) months of practical training on the job supplemented by related theoretical instruction.
- (d) "*Apprenticeship agreement*" is an employment contract wherein the employer binds himself to train the apprentice and the apprentice in turn accepts the terms of training.

ARTICLE 59. *Qualifications of Apprentice.* — To qualify as an apprentice, a person shall:

- (a) Be at least fourteen (14) years of age;
- (b) Possess vocational aptitude and capacity for appropriate tests; and
- (c) Possess the ability to comprehend and follow oral and written instructions.

Trade and industry associations may recommend to the Secretary of Labor appropriate educational requirements for different occupations.

ARTICLE 60. *Employment of Apprentices.* — Only employers in the highly technical industries may employ apprentices and only in apprenticeable occupations approved by the Minister of Labor and Employment.

ARTICLE 61. *Contents of Apprenticeship Agreements.* — Apprenticeship agreements, including wage rates of apprentices, shall conform to the rules issued by the Minister of Labor and Employment. The period of apprenticeship shall not exceed six months. Apprenticeship agreements providing for wage rates below the legal minimum wage, which in no case shall start below 75 percent of the applicable minimum wage, may be entered into only in accordance with apprenticeship programs duly approved by the Minister of Labor and Employment. The Ministry shall develop standard model programs of apprenticeship.

ARTICLE 62. *Signing of Apprenticeship Agreement.* — Every apprenticeship agreement shall be signed by the employer or his agent, or by an authorized representative of any of the recognized organizations, associations or groups and by the apprentice.

An apprenticeship agreement with a minor shall be signed in his behalf by his parent or guardian or, if the latter is not available, by an authorized representative of the Department of Labor, and the same shall be binding during its lifetime.

Every apprenticeship agreement entered into under this Title shall be ratified by the appropriate apprenticeship committees, if any, and a copy thereof shall be furnished both the employer and the apprentice.

ARTICLE 63. *Venue of Apprenticeship Programs.* — Any firm, employer, group or association, industry organization or civic group wishing to organize an apprenticeship program may choose from any of the following apprenticeship schemes as the training venue for apprentice:

- (a) Apprenticeship conducted entirely by and within the sponsoring firm, establishment or entity;
- (b) Apprenticeship entirely within a Department of Labor and Employment training center or other public training institution; or
- (c) Initial training in trade fundamentals in a training center or other institution with subsequent actual work participation within the sponsoring firm or entity during the final stage of training.

ARTICLE 64. *Sponsoring of Apprenticeship Program.* — Any of the apprenticeship schemes recognized herein may be undertaken or sponsored by a single employer or firm or by a group or association thereof or by a civic organization. Actual training of apprentices may be undertaken:

- (a) In the premises of the sponsoring employer in the case of individual apprenticeship programs;
- (b) In the premises of one or several designated firms in the case of programs sponsored by a group or association of employers or by a civic organization; or
- (c) In a Department of Labor and Employment training center or other public training institution.

ARTICLE 65. *Investigation of Violation of Apprenticeship Agreement.* — Upon complaint of any interested person or upon its own initiative, the appropriate agency of the Department of Labor and Employment or its authorized representative shall investigate any violation of an apprenticeship agreement pursuant to such rules and regulations as may be prescribed by the Secretary of Labor and Employment.

ARTICLE 66. *Appeal to the Secretary of Labor and Employment.* — The decision of the authorized agency of the Department of Labor and Employment may be appealed by any aggrieved person to the Secretary of Labor and Employment within five (5) days from receipt of the decision. The decision of the Secretary of Labor and Employment shall be final and executory.

ARTICLE 67. *Exhaustion of Administrative Remedies.* — No person shall institute any action for the enforcement of any apprenticeship agreement or damages for breach of any such agreement, unless he has exhausted all available administrative remedies.

ARTICLE 68. *Aptitude Testing of Applicants.* — Consonant with the minimum qualifications of apprentice-applicants required under this Chapter, employers or entities with duly recognized apprenticeship programs shall have primary responsibility for providing appropriate aptitude tests in the selection of apprentices. If they do not have adequate facilities for the purpose, the Department of Labor and Employment shall perform the service free of charge.

ARTICLE 69. *Responsibility for Theoretical Instruction.* — Supplementary theoretical instruction to apprentices in cases where the program is undertaken in the plant may be done by the employer. If the latter is not prepared to assume the responsibility, the same may be delegated to an appropriate government agency.

ARTICLE 70. *Voluntary Organization of Apprenticeship Programs; Exemptions.* — (a) The organization of apprenticeship program shall be primarily a voluntary undertaking by employers;

(b) When national security or particular requirements of economic development so demand, the President of the Philippines may require compulsory training of apprentices in certain trades, occupations, jobs or employment levels where shortage of trained manpower is deemed critical as determined by the Secretary of Labor and Employment. Appropriate rules in this connection shall be promulgated by the Secretary of Labor and Employment as the need arises; and

(c) Where services of foreign technicians are utilized by private companies in apprenticeable trades, said companies are required to set up appropriate apprenticeship programs.

ARTICLE 71. *Deductibility of Training Costs.* — An additional deduction from taxable income of one-half (1/2) of the value of labor training expenses incurred for developing the productivity and efficiency of apprentices shall be granted to the person or enterprise organizing an apprenticeship program: *Provided*, That such program is duly recognized by the Department of Labor and Employment: *Provided, further*, That such deduction shall not exceed ten (10%) percent of direct labor wage: and *Provided, finally*, That the person or enterprise who wishes to avail himself or itself of this incentive should pay his apprentices the minimum wage.

ARTICLE 72. *Apprentices without Compensation.* — The Secretary of Labor and Employment may authorize the hiring of apprentices without compensation whose training on the job is required by the school or training program curriculum or as requisite for graduation or board examination.

## **CHAPTER II Learners**

ARTICLE 73. *Learners Defined.* — Learners are persons hired as trainees in semi-skilled and other industrial occupations which are non-apprenticeable and which may be learned through practical training on the job in a relatively short period of time which shall not exceed three (3) months.

ARTICLE 74. *When Learners may be Hired.* — Learners may be employed when no experienced workers are available, the employment of learners is necessary to prevent curtailment of employment opportunities, and the employment does not create unfair competition in terms of labor costs or impair or lower working standards.

ARTICLE 75. *Learnership Agreement.* — Any employer desiring to employ learners shall enter into a learnership agreement with them, which agreement shall include:

- (a) The names and addresses of the learners;
- (b) The duration of the learnership period, which shall not exceed three (3) months;
- (c) The wages or salary rates of the learners which shall begin at not less than seventy-five percent (75%) of the applicable minimum wage; and
- (d) A commitment to employ the learners if they so desire, as regular employees upon completion of the learnership. All learners who have been allowed or suffered to work during the first two (2) months shall be deemed regular employees if training is terminated by the employer before the end of the stipulated period through no fault of the learners.

The learnership agreement shall be subject to inspection by the Secretary of Labor and Employment or his duly authorized representative.

ARTICLE 76. *Learners in Piecework.* — Learners employed in piece or incentive-rate jobs during the training period shall be paid in full for the work done.

ARTICLE 77. *Penalty Clause.* — Any violation of this Chapter or its implementing rules and regulations shall be subject to the general penalty clause provided for in this Code.

## **CHAPTER III Handicapped Workers**

ARTICLE 78. *Definition.* — Handicapped workers are those whose earning capacity is impaired by age or physical or mental deficiency or injury.



ARTICLE 79. *When Employable.* — Handicapped workers may be employed when their employment is necessary to prevent curtailment of employment opportunities and when it does not create unfair competition in labor costs or impair or lower working standards.

ARTICLE 80. *Employment Agreement.* — Any employer who employs handicapped workers shall enter into an employment agreement with them, which agreement shall include:

1. The names and addresses of the handicapped workers to be employed;
2. The rate to be paid the handicapped workers which shall not be less than seventy five (75%) percent of the applicable legal minimum wage;
3. The duration of employment period; and
4. The work to be performed by handicapped workers.

The employment agreement shall be subject to inspection by the Secretary of Labor or his duly authorized representative.

ARTICLE 81. *Eligibility for Apprenticeship.* — Subject to the appropriate provisions of this Code, handicapped workers may be hired as apprentices or learners if their handicap is not such as to effectively impede the performance of job operations in the particular occupations for which they are hired.