

HOUSE OF REPRESENTATIVES

H. No. 7718

BY REPRESENTATIVES TULFO (R.W.), TULFO (J.), TAMBUNTING, SALO AND DALIPE, PER COMMITTEE
REPORT NO. 466

AN ACT

REDEFINING THE CRIME OF ILLEGAL RECRUITMENT COMMITTED BY A SYNDICATE, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED, AND REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995, AS AMENDED

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. Article 38 of Presidential Decree No. 442, otherwise known as the "Labor Code
2 of the Philippines," as amended, is hereby further amended to read as follows:

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4 "Article 38. Illegal Recruitment. – (a) Any recruitment activities,
5 including the prohibited practices enumerated under Article 34 of this
6 Code, to be undertaken by non-licensees or non-holders of authority,
7 shall be deemed illegal and punishable under Article 39 of this Code.
8 The Department of Labor and Employment or any law enforcement
9 officer may initiate complaints under this Article.

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11 "(b) Illegal recruitment when committed by a syndicate or in large
12 scale shall be considered an offense involving economic sabotage and
13 shall be penalized in accordance with Article 39 hereof.

14
15 "Illegal recruitment is deemed committed by a syndicate if (1) carried
16 out by a group of three (3) or more persons conspiring and/or
17 confederating with one another in carrying out any unlawful or illegal
18 transaction, enterprise or scheme defined under the first paragraph
19 hereof[.], **OR (2) IF THE OFFENDERS ARE NON-LICENSEES**
20 **OR NON-HOLDERS OF AUTHORITY AND THE ACT WAS**
21 **CARRIED OUT BY TWO (2) OR MORE PERSONS.**

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23 Illegal recruitment is deemed committed in large scale if committed
24 against three (3) or more persons individually or as group.

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26 [(c) The Secretary of Labor and Employment or his duly authorized
27 representatives shall have the power to cause the arrest and detention

1 of such non-licensee or non-holder of authority if after investigation
2 it is determined that his activities constitute a danger to national
3 security and public order or will lead to further exploitation of job-
4 seekers. The Secretary shall order the search of the office or premises
5 and seizure of documents, paraphernalia, properties and other
6 implements used in illegal recruitment activities and the closure of
7 companies, establishments and entities found to be engaged in the
8 recruitment of workers for overseas employment, without having been
9 licensed or authorized to do so.]

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11 SEC. 2. Section 6 of Republic Act No. 8042, otherwise known as the "Migrant Workers and
12 Overseas Filipinos Act of 1995," as amended by R.A. 10022, is hereby further amended to read
13 as follows:

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15 "SEC. 6. Definition. – For purposes of this Act, illegal recruitment
16 shall mean any act of canvassing, enlisting, contracting, transporting,
17 utilizing, hiring, or procuring workers and includes referring, contract
18 services, promising or advertising for employment abroad, whether
19 for profit or not, when undertaken by non-licensee or non-holder of
20 authority contemplated under Article 13(f) of Presidential Decree No.
21 442, as amended, otherwise known as the Labor Code of the
22 Philippines: Provided, That any such non-licensee or non-holder who,
23 in any manner, offers or promises for a fee employment abroad to two
24 or more persons shall be deemed so engaged. It shall likewise include
25 the following acts, whether committed by any person, whether a non-
26 licensee, non-holder, licensee or holder of authority:

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28 "(a) To charge or accept directly or indirectly any amount greater than
29 that specified in the schedule of allowable fees prescribed by the
30 Secretary of Labor and Employment, or to make a worker pay or
31 acknowledge any amount greater than that actually received by him
32 as a loan or advance;

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36 "(m) Failure to reimburse expenses incurred by the worker in
37 connection with his documentation and processing for purposes of
38 deployment, in cases where the deployment does not actually take
39 place without the worker's fault[. Illegal recruitment when committed
40 by a syndicate or in large scale shall be considered an offense
41 involving economic sabotage]; and

42
43 "(n) To allow a non-Filipino citizen to head or manage a licensed
44 recruitment/manning agency.

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46 **ILLEGAL RECRUITMENT WHEN COMMITTED BY A**
47 **SYNDICATE OR IN LARGE SCALE SHALL BE**
48 **CONSIDERED AN OFFENSE INVOLVING ECONOMIC**
49 **SABOTAGE.**

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Illegal recruitment is deemed committed by a syndicate if (1) carried out by a group of three (3) or more persons conspiring or confederating with one another, **OR (2) IF THE OFFENDERS ARE NON-LICENSEES OR NON-HOLDERS OF AUTHORITY AND THE ACT WAS CARRIED OUT BY TWO (2) OR MORE PERSONS.** It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

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SEC. 3. If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 4. All laws, presidential decrees, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 5. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,