

REPUBLIC ACTS

REPUBLIC ACT NO. 1198

AN ACT CREATING THE OFFICE OF STATE ATTORNEYS IN THE DEPARTMENT OF JUSTICE AND DEFINING ITS POWERS AND DUTIES AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR.

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

SECTION 1. There shall be in the Department of Justice an Office of State Attorneys composed of one chief, two assistant chiefs and sixteen state attorneys whose term of office shall expire on the thirty-first day of December, nineteen hundred and fifty-seven. The Chief of the Office shall receive a salary of twelve thousand pesos per annum, and shall have the rank of Solicitor General. He shall be assisted by two Assistant Chief Attorneys who shall each receive a salary of nine thousand pesos per annum and sixteen State Attorneys who shall each receive a salary of eight thousand pesos per annum.

The Chief and Assistant Chiefs of the Office of State Attorneys and the sixteen State Attorneys shall be appointed by the President of the Philippines with the concurrence of the Commission on Appointments.

No one shall be appointed as Chief or Assistant Chief of the Office of State Attorneys unless he has had at least ten years of trial court practice, and as State Attorney unless he has had at least five years of trial court practice in the Philippines; and appointment may take into account equitable representation of provinces in the Office, considering for this purpose the representation of the provinces now already have in the offices of the provincial fiscals.

SEC. 2. The Chief and Assistant Chiefs of the Office of State Attorneys and the State Attorneys shall have the same powers as the provincial or city fiscal as provided for by the law: *Provided*, That the State Attorney shall only assist or collaborate with the provincial fiscal or city attorney unless otherwise expressly directed and authorized by the Secretary of Justice.

In all cases involving crimes cognizable by the Court of First Instance, no complaint or information shall be filed without first giving the accused a chance to be heard in a preliminary investigation, where such accused shall be subpoenaed and appears before the investigating state attorney with the right to cross-examine the complainant and his witnesses. The preliminary investigation shall be held at the capital of the province where the crime was committed. The State Attorney shall certify under oath in the information to be filed by him that the defendant was given a chance to appear on his behalf or by counsel: *Provided, however*, That when a preliminary investigation has already been conducted by the Justice of the Peace or the Provincial or City Fiscal and where such official has found at least a *prima facie* case, the State Attorney may not conduct another preliminary investigation. To this end, the State Attorney may summon witnesses and require them to appear and testify under oath before him and/or issue *subpoena duces tecum*. The attendance of absent or recalcitrant witnesses who may be summoned or whose testimony may be required by the State Attorneys under the authority herein conferred shall be enforced by proper process upon application to the corresponding Court of First Instance. In the investigation of criminal cases, any State Attorney shall be entitled to request the assistance of any law enforcement or investigation agency of the government.

The Chief of the Office of State Attorneys and the State Attorneys shall perform such other duties as in the interest of the public service may be assigned to them from time to time by the Secretary of Justice.

SEC. 3. The Office of State Attorneys shall be provided with such subordinate personnel as may be authorized by the appropriation law.

SEC. 4. Upon the organization of the Office of State Attorneys, the Prosecution Division in the Department of Justice shall be deemed abolished and its properties, furniture, equipment and records shall be transferred to the Office of State Attorneys.

SEC. 5. There is hereby authorized to be appropriated, out

of any funds of the National Treasury not otherwise appropriated, the sum of three hundred thousand pesos for the salaries of the State Attorneys and their personnel and maintenance of the Office.

SEC. 6. This Act shall take effect upon its approval.

Approved, August 28, 1954.

REPUBLIC ACT NO. 1080

AN ACT DECLARING THE BAR AND BOARD EXAMINATIONS AS CIVIL SERVICE EXAMINATIONS.

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

SECTION 1. The bar examinations and the examinations given by the various boards of examiners of the Government are declared as civil service examinations, and shall, for purposes of appointment to positions in the classified service the duties of which involve knowledge of the respective professions, except positions requiring highly specialized knowledge not covered by the ordinary board examinations, be considered as equivalent to the first grade regular examination given by the Bureau of Civil Service if the profession requires at least four years of study in college and the person has practiced his profession for at least two years, and as equivalent to the second grade regular examination if the provision requires less than four years of college study.

SEC. 2. The Commissioner of Civil Service shall be furnished by the Clerk of the Supreme Court and the Secretary of the Board of Examiners a list of the successful candidates in the respective bar or board examinations with their general averages, and preference shall be given to those obtaining the highest ratings in making appointments: *Provided*, That for those who have already passed the corresponding bar or board examinations, the eligibility shall be deemed to commence from the approval of this Act.

SEC. 3. The Commissioner of Civil Service shall promulgate the rules and regulations to implement the provisions of this Act.

SEC. 4. The benefits granted under this Act shall not prescribe, the provisions of civil service law or regulations notwithstanding.

SEC. 5. This Act shall take effect upon its approval.

Approved, June 15, 1954.

OPINION NO. 129

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ilities not included in the list are not governed by the cited presidential decree (Section 11), it is believed that the exportation of rice bran may not be controlled or restricted by the Export Control Committee.

The need for the conservation of rice bran for local consumption underscored by the Director of Animal Industry as essential to the campaign for increased production of poultry and livestock does not supply legal basis for the Export Control Committee to control or restrict its exportation. Necessity does not create power. Neither does it afford legal justification for the exercise of a power vested in some other authority. The President, not the Export Control Committee, is the authority designated by statute to implement and carry out the policy expressed in the Export Control Law and the Committee, as thereby created, merely assists the President in its execution and sees to it that the rules and regulations issued thereunder are observed and carried out. If there is such an urgent need for restricting or controlling the exportation of rice bran, the remedy lies in the President who may prohibit or regulate its exportation thru the issuance of the appropriate amendatory executive order. But until then, it is my opinion that rice bran may be exported even without applying for a permit from the President.

Respectfully,

PEDRO TUASON
Secretary of Justice