

# [ PRESIDENTIAL DECREE NO. 1758, January 02, 1981 ]

## AMENDING FURTHER SECTIONS 2, 3, 5, 6, AND 8 OF PRESIDENTIAL DECREE NO. 902-A

**WHEREAS**, one of the objectives of the government as envisioned under Presidential Decree No. 902-A, as amended by P. D. 1653, is to attract and to mobilize investments, domestic and foreign, through the participation of private enterprises in activities identified as most contributive to the growth of the national economy;

**WHEREAS**, in order to attain this national objective it is incumbent upon government to provide a favor-role climate for investments to be vigorously mobilized to insure a wider and more meaningful equitable distribution of wealth;

**WHEREAS**, being the principal agency of the government charged with the establishment of the needed atmosphere in all phases of the country's economic and industrial development, the Securities and Exchange Commission must be *provided* with the appropriate organizational structure, financial support and manpower capabilities commensurate with the scope of its tasks; and

**WHEREAS**, for these programs to succeed, there is now a pressing need to restructure the Securities and Exchange Commission not only to make it a more potent, responsive and effective arm of the government but to enable it to play a more effective role in the socio-economic development of the country;

**NOW, THEREFORE, I, FERDINAND E. MARCOS**, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, and the authority vested in me by Presidential Decree No. 1416, do hereby order and decree;

**SECTION 1.** The first and second paragraphs of Section 2 of Presidential Decree No. 902-A, as amended by Presidential Decree No. 1653, is hereby further amended to read as follows:

**"SEC. 2.** That the Commission shall be a collegial body composed of a Chairman and four (4) Associate Commissioners who shall be appointed by the President and the term of office of each member shall be seven (7) years; *Provided, however,* That the Chairman and the two Associate Commissioners of the Commission first appointed by the President shall serve for a period of seven (7) years; five (5) years and three (3) years as continue in Office in accordance with the terms fixed in their current respective appointments, and the two additional Associate Commissioners first appointed by the President under this Decree, as amended, shall serve for five (5) years and three (3) years as fixed in their respective appointments; *Provided, further,* That upon the expiration of his term, a member shall serve as such until his successor shall have been appointed and qualified; and *Provided, finally,* That no vacancy shall be filled except for the unexpired portion of the term.

The Commission shall meet as often as may be necessary on such day or days as the Chairman may fix. The notice of the meeting shall be given

to all members of the Commission and the presence of at least three (3) shall constitute a quorum. In the absence of the Chairman, the more senior Associate Commissioner shall act as presiding officer of the meeting."

**SEC. 2.** Section 3 of the same Presidential Decree, as amended by Presidential Decree No. 1653, is hereby further amended to read as follows:

**"SEC. 3.** The Commission shall have absolute jurisdiction, supervision and control over all corporations, partnerships or associations, who are the grantees of primary franchises and/or a license or permit issued by the government to operate in the Philippines, and in the exercise of its authority, it shall have the power to enlist the aid and support of and to deputize any and all enforcement, agencies of the government, civil or military as well as any private institution, corporation, firm, association or person."

**SEC. 3.** Section 5 of the same Presidential Decree is hereby amended by adding thereunder sub-paragraph (d) to read as follows:

"d) Petitions of corporations, partnerships or association to be declared in the state of suspension of payments in cases where the corporation, partnership or association possesses sufficient property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree."

**SEC. 4.** Sub-paragraph c), d), h) and m) of Presidential Decree No. 902-A, as amended by Presidential Decree No. 1653, is hereby further amended to read as follows:

"c) To appoint one or more receivers of the property, real and personal, which is the subject of the action pending before the Commission in accordance with the pertinent provisions of the Rules of Court in such other cases whenever necessary in order to preserve the rights of the parties-litigants and/or protect the interest of the investing public and creditors. *Provided, however,* that the Commission may, in appropriate cases, appoint a Rehabilitation Receiver who shall have, in addition to the powers of a regular receiver under the provisions of the Rules of Court, such functions and powers as are *provided* for in the succeeding paragraph d) hereof. *Provided, further,* that upon appointment of a management committee, rehabilitation receiver, board or body, pursuant to this Decree, all actions for claims against corporations, partnerships or associations under management or receivership pending before any court, tribunal, board or body shall be suspended accordingly,"

"d) To create and appoint a management committee, board, or body upon petition or motu proprio to undertake the management of corporations, partnerships or other associations in appropriate cases when there is imminent danger of dissipation, loss, wastage or destruction of assets or other properties or paralyzation of business operations of such corporations or entities which may be prejudicial to