

**[ DOLE, October 05, 1995 ]**

**RULES AND REGULATIONS IMPLEMENTING THE MIGRANT  
WORKERS AND OVERSEAS FILIPINOS ACT OF 1995**

Pursuant to the authority vested by law on the Secretary of Labor and Employment the following Implementing Rules and Regulations are hereby promulgated:

**I**

**General Policy Statement**

*SECTION 1. Declaration of Policies. —*

(a) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest the right to self-determination paramount in its relations with other states, the State shall, at all times, uphold the dignity of its citizens whether in the country or overseas, in general, and Filipino migrant workers, in particular.

(b) The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. Towards this end, the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.

(c) While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, the state does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizen shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.

(d) The State affirms the fundamental equality before the law of women and men and the significant role of women in nation-building. Recognizing the contribution of women migrant workers and their particular vulnerabilities, the State shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers.

(e) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. In this regard, it is imperative that an affective mechanism be instituted to ensure that the rights and interest of distressed overseas Filipinos, in general, and Filipino migrant workers, in particular, documented or undocumented, are adequately protected and

safeguarded.

(f) The right of Filipino migrant workers and all overseas Filipinos to participate in the democratic decision-making process of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed.

(g) The State recognizes that the ultimate protection to all migrant workers is the possession of skills.

(h) Non-governmental organizations, duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare. The State shall cooperate with them in the spirit of trust and mutual respect.

## II

### Definition of Terms

#### *SECTION 2. Definitions —*

(a) **Migrant Worker** — refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a legal resident; to be used interchangeably with "Overseas Filipino Worker";

(b) **Legal Resident** — means a person who has obtained permanent residency status in accordance with the law of the host country.

(c) **Overseas Filipinos** — refers to migrant workers, other Filipino nationals and their dependents abroad.

(d) **Documented Migrant Workers** — refers to:

(1) those who possess valid passports and visas or permits to stay in the host country and whose contracts employment have been processed by the POEA if required by law or regulation; or

(2) those registered by the Migrant Workers and Other Overseas Filipinos Resources Center or by the Embassy.

(e) **Undocumented Migrant Workers** — refers to those who do not fall under paragraph (d) herein.

(f) **Gender Sensitivity** — means cognizance of the inequalities and inequities prevalent in society between women and men and a commitment to address issues with concern for the respective interest of the sexes.

(g) **Non-Government Organizations (NGOs)** — refers to non-governmental organizations which are duly registered with appropriate Philippine government agencies.

(h) **Skilled Workers** — refers to those who have obtained an academic degree or sufficient training or experience in the job for which they are applying, as may be

determined by the Secretary.

(i) **Underage Migrant Workers** — refers to those who are below 18 years or below the minimum age requirement for overseas employment as determined by the Secretary.

(j) **Employment Agency** — refers to any person, partnership or corporation duly licensed by the Secretary to engage in the recruitment and placement of workers for overseas employment for a fee which is charged, directly or indirectly, from the workers or employers or both.

(k) **Manning Agency** — refers to any person, partnership or corporation duly licensed by the Secretary to engage in the recruitment and placement of seafarers for vessels plying international waters and for related maritime activities.

(l) **Service Contractor** — refers to any person, partnership or corporation duly licensed by the Secretary to recruit workers for its accredited projects or contracts overseas.

(m) **Labor Code** — refers to Presidential Decree No. 442, as amended.

(n) **Secretary** — refers to the Secretary of Labor and Employment.

(o) **Act** — refers to the "Migrant Workers and Overseas Filipinos Act of 1995," to be used interchangeably with the "R.A. 8042."

(p) **DOLE** — refers to the Department of Labor and Employment.

(q) **POEA** — refers to the Philippine Overseas Employment Administration.

(r) **OWWA** — refers to the Overseas Workers Welfare Administration.

(s) **NLRC** — refers to the National Labor Relations Commission.

(t) **BLE** — refers to the Bureau of Local Employment.

(u) **TESDA** — refers to the Technical Education and Skills Development Authority.

(v) **DFA** — refers to the Department of Foreign Affairs.

(w) **DOJ** — refers to the Department of Justice.

(x) **DOST** — refers to the Department of Science and Technology.

### **III**

#### **Deployment**

*SECTION 3. Guarantee of Migrant Workers Rights* — The Secretary shall deploy or allow the deployment of Filipino migrant workers only in countries where their rights are protected, recognizing any of the following as a guarantee for the protection of the rights of migrant workers:

- (a) The country has existing labor and social laws protecting the rights of migrant workers in substantial conformity with UN Conventions;
- (b) The country is a signatory to UN multilateral conventions declarations or resolutions relating to the protection of migrant workers;
- (c) The country has concluded bilateral agreement or arrangement with the Philippine Government on the protection of the rights of Overseas Filipino Workers; and
- (d) The host country is taking positive, concrete measures to protect the rights of migrant workers consistent with relevant UN Conventions.

The POEA shall process overseas employment contracts only for countries meeting any of the above criteria, as determined by the Secretary

*SECTION 4. Deployment of Skilled Workers.* — As soon as adequate mechanisms for determination of skill are in place and consistent with national interest, the Secretary shall allow the deployment only of skilled Filipino workers.

*SECTION 5. Ban on Deployment* — Notwithstanding the provisions of Sections 3 and 4 of these Rules, the Secretary, in pursuit of the national interest or when public welfare so requires, may, at any time, terminate or impose ban on the deployment of migrant workers.

*SECTION 6. Travel Advisory* — The POEA shall publish, at least once a month, a Travel Advisory in a newspaper of general circulation. The basis of this shall be the travel advisories from the DFA relative to labor employment conditions, migration realities and other facts, as well as adherence of particular countries to international standards on human and workers rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment.

The POEA may undertake other programs or resort to other modes of information and dissemination campaign, such as the conduct of nationwide, comprehensive and sustainable Pre-Employment Orientation Seminars.

## **IV**

### **Regulation of Private Sector Participation**

*SECTION 7. Role of POEA.* — Subject to deregulation and phase-out as provided under Section 29 and 30 of the Act, the POEA shall continue to regulate private sector participation in the recruitment and overseas placement of workers through its licensing and registration system pursuant to its Rules and Regulations on Overseas Employment.

POEA shall formulate and implement, in coordination with appropriate entities concerned when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements.

The POEA shall come up with a package of incentives for deserving manning agencies and service contractors, along with the policy that the deployment of workers by such entities shall be encouraged.

## **V**

### **Fees and Other Costs**

*SECTION 8. Government Fees and Administrative Costs.* — All fees for services being charged by any government office on migrant workers as of 7 June 1995 shall not be increased. All other services rendered by the DOLE and other government agencies in connection with the recruitment, introduction and placement of and assistance to migrant workers shall be rendered free. The administrative cost thereof shall not be borne by the worker.

The migrant workers are exempt from the payment of travel tax and airport fee upon proper showing of Overseas Employment Certificate issued by the POEA.

## **VI**

### **Illegal Recruitment**

*SECTION 9. Definition.* — For purpose of the Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged.

It shall likewise include the following acts committed by any person whether or not a holder of a license or authority:

- (a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary, or to make a worker pay the recruiter or its agents any amount greater than that actually loaned or advanced to him;
- (b) To furnish or publish any false notice or information or document in relation to recruitment or employment;
- (c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;
- (d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- (e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;