

MEMORANDUM OF UNDERSTANDING BETWEEN AUSTRALIA AND THE PHILIPPINES ON EMPLOYMENT OF THE DEPENDANTS OF DIPLOMATIC AND CONSULAR PERSONNEL

Australia and the Philippines (the States) have mutually determined the following:

Paragraph 1 Definitions and Interpretation

For the purposes of this Memorandum:

1. "mission employee" means any employee of the sending State:

- (a) who is not a national or permanent resident of the receiving State; and
- (b) who is employed in a diplomatic mission or a consular post which is located in the receiving State.

2. " family member " means any member of the family of a mission employee:

- (a) who has been accepted as such a member by the receiving State ; and
- (b) who forms part official household of that mission employee.

3. "Ministry for Foreign Affairs " means the Department of Foreign Affairs and Trade where Australia is the receiving State and **Department of Foreign Affairs** where the **Philippines** is the receiving State .

4. "Diplomatic Relations Convention" means the *Vienna Convention on Diplomatic Relations* of 18 April 1961 as amended from time to time.

5. "Consular Relations Convention" means the *Vienna Convention on Consular Relations* of 24 April 1963 as amended from time to time.

Paragraph 2 Scope of this Memorandum

1. On a reciprocal basis , the receiving State will permit a family member from the sending State to engage in gainful employment in the receiving State in accordance with this Memorandum and the laws of the receiving State.

2. Subject to this Memorandum and the laws of the receiving State (as amended from time to time), the receiving State will not restrict the type of gainful employment of a family member. However it is understood that:

- (a) in order to be eligible tor employment in those professions where particular qualifications are required in order to be gainfully employed, a family member must satisfy those qualifications ; and
- (b) employment in an occupation may be denied to a family member in cases where , for security reasons , only nationals of the receiving State may be employed in that occupation.

Paragraph 3

Procedures for notification

1. Before a family member commences gainful employment , the Embassy of the sending State will send on behalf of that family member , by email , to the Ministry for Foreign Affairs of the receiving State , a ' Notice of intention to engage in gainful employment. A standard ' Notice of Intention ' is attached at Appendix A.
2. A family member will:
 - (a) pay applicable income tax in the receiving State on the income earned from the employment ;
 - (b) remain part of the household of the mission employee
 - (c) acknowledge that his / her immunity could be waived , should the need arise in relation to an issue relating to his / her employment.
3. Any requirements relating to work permits and similar formalities for the family member's employment will be favourably applied by the receiving State.
- 4 . If the family member is a student , they will be limited to working no more than 20 hours per week
5. Where a family member on whose behalf the sending State has already provided a 'Notice of Intention' to engage in gainful employment under this arrangement wishes to engage in other gainful employment , the procedures for notice as set out in this paragraph will be followed.

Paragraph 4

Expiry of permission

- 1 . The permission for the family member to engage in gainful employment in the receiving State will expire upon the occurrence of the following events (whichever occurs first) :
 - (a) the date of termination of the functions of the mission employee; or
 - (b) the legal separation or divorce of the mission employee and the family member;or
 - (c) the family member ceasing to form part of the official household of the mission employee; or
 - (d) the final departure of the mission employee or the family member from the receiving State .

Paragraph 5

Civil and administrative jurisdiction

1. Where a family member has , in accordance with the Diplomatic Relations Convention , immunity from the civil and administrative jurisdiction of the receiving State , such immunity will be waived by the sending State in respect of all matters arising out of the gainful employment of that family member and which also fall within the civil or administrative jurisdiction of the receiving State. In such cases , the sending State will also waive immunity from execution of any judgment against the family member.