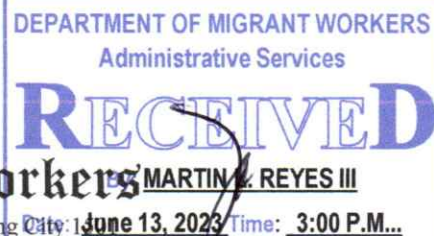




Republic of the Philippines  
**Department of Migrant Workers**

Blas F. Ople Building, Ortigas Avenue cor. EDSA, Mandaluyong City



**DEPARTMENT CIRCULAR NO. 01**

**PROMULGATING THE 2023 DEPARTMENT OF MIGRANT WORKERS RULES AND REGULATIONS GOVERNING THE RECRUITMENT AND EMPLOYMENT OF LANDBASED OVERSEAS FILIPINO WORKERS**

**WHEREAS**, Republic Act (R.A.) No. 11641 or the Department of Migrant Workers Act was signed into law on December 30, 2021 and took effect on February 3, 2022;

**WHEREAS**, R.A. No. 11641 consolidated and merged the Philippine Overseas Employment Administration, the Office of the Undersecretary for Migrant Workers' Affairs of the Department of Foreign Affairs, the International Labor Affairs Bureau and all Philippine Overseas Labor Offices under Department of Labor and Employment, the National Maritime Polytechnic, the National Reintegration Center for OFWs under the Overseas Workers Welfare Administration, and the Office of the Social Welfare Attaché under the Department of Social Welfare and Development, and hereby constituted and established the Department of Migrant Workers (DMW);

**WHEREAS**, the DMW is the executive department of the Philippine government tasked to protect the rights and promote the welfare of Overseas Filipino Workers (OFWs);

**WHEREAS**, Section 8 (c) of R.A. No. 11641 provides that the Secretary shall have the power to issue orders, directives, rules, regulations, and other issuances, upon due consultation with stakeholders, to carry out policies, plans, programs, or projects pursuant to the provisions of this Act, and exercise such other powers as may be required to implement and realize the objectives of the said law;

**WHEREAS**, considering the creation of the new Department, there is a need to create Rules and Regulations to govern the recruitment and employment of migrant workers;

**NOW, THEREFORE**, in consideration of the foregoing, the DMW hereby issues and promulgates the attached 2023 Department of Migrant Workers Rules and Regulations Governing the Recruitment and Employment of Landbased Filipino Workers.

Issued on June 9, 2023, Mandaluyong City.

  
**MARIA SUSANA V. OPLE**  
Secretary

**CONTROLLED AND DISSEMINATED**  
By DMW General Services Division on: June 13, 2023





Republic of the Philippines

## **Department of Migrant Workers**

Blas F. Ople Building, Ortigas Avenue cor. EDSA, Mandaluyong City 1501

### **2023 DMW RULES AND REGULATIONS GOVERNING THE RECRUITMENT AND EMPLOYMENT OF LANDBASED OVERSEAS FILIPINO WORKERS**

#### **PART I General Provisions**

##### **RULE I Statement of Policy**

It is the duty of the State to protect the rights and promote the welfare of OFWs and their families, by: (a) ensuring that private recruitment shall meet professional, legal, and ethical standards; (b) obtaining the best possible conditions of work that uphold the dignity of OFWs; (c) providing timely and responsive services to address their needs regardless of legal status; (d) ensuring their participation in the formulation of policies affecting their welfare; and (e) providing mechanisms for skills development and reintegration.

In adherence to ratified international conventions and bilateral or multilateral treaties on migration, the State commits to progressively align its programs and policies towards the fulfillment of the twenty-three (23) objectives of the Global Compact for Safe, Orderly and Regular Migration (GCM).

The State does not promote overseas employment as a means to economic growth and national development and shall continuously aim to make it a choice and not a necessity. The State shall institute measures that will strengthen the domestic labor market for the effective reintegration of OFWs.

##### **RULE II Definition of Terms**

For purposes of these Rules, the following terms are defined as follows:

1. Accommodation – refers to houses/housing facilities provided to OFWs by a recruitment agency and/or foreign principal/employer.
2. Accreditation – refers to the grant of authority by the Department to a foreign principal/employer to recruit and hire Filipino workers through a licensed recruitment agency for landbased overseas employment and other pathways for regular migration as may be authorized by the Secretary.
3. Authentication – refers to the attestation by the Philippine Consular Office or competent authority of the genuineness of the signature appearing on the document, for the purpose of identifying a specific document and giving credence to the official act of the notary public or certifying officers thereon for use, if and when required, as an instrument of evidence in a foreign country.
4. Contracted worker – refers to an OFW with an employment contract/offer of employment already processed by the Department for overseas deployment, whether as an agency-hire, direct-hire, or rehire.
5. Derogatory record – refers to the certification from the Department through the Migrant Workers Protection Bureau that the person has a derogatory



- record. This also refers to the resolution on the finding of probable cause by the Department of Justice for illegal recruitment or for other related crimes or offenses, or a licensed recruitment agency whose license has been cancelled or revoked by the Department, including its proprietors, partners or officers, directors, and employees responsible for the commission of the crime or offense. This also includes persons with a certification from the NBI that s/he has a derogatory record.
6. Direct Hire – refers to workers directly hired by employers for overseas employment as authorized by the Secretary and processed by the Department, including:
    - a. Those hired by international organizations;
    - b. Those hired by members of the diplomatic corps;
    - c. Name hires or workers who are able to secure overseas employment opportunities with employers without the assistance or participation of any agency; and
    - d. Other workers as may be allowed by the Department.
  7. Department – refers to the Department of Migrant Workers.
  8. Domestic worker – refers to any person engaged in domestic work (work performed in or for a household or any member thereof) within an employment relationship.
  9. DFA – refers to the Department of Foreign Affairs.
  10. Documentation cost – refers to the actual costs incurred in the documentation of an applicant-worker in relation to his/her application for overseas employment.
  11. Employer – refers to a person, partnership, or corporation that directly signs an employment contract, employs, and pays salaries and benefits of workers, as well as repatriates hired OFW.
  12. Employment Contract/Offer of Employment – refers to the following:
    - a. For land-based workers hired by private recruitment/employment agencies – an individual written agreement between the foreign principal/employer and the worker based on the master employment contract approved by the Department;
    - b. For intermodal OFWs – a written occupation or sector-specific and Department-approved employment contract stipulating the standards for employment and the specific period of employment, individually adopted and agreed upon by the principal/employer and the worker; and
    - c. All other agreements entered into between the worker and the foreign principal/employer, enumerating the terms and conditions of employment based on the minimum labor standards of the Philippine government and the host government.
  13. Ethical Recruitment – refers to the lawful hiring of workers in a fair and transparent manner that respects and protects their dignity and human rights.
  14. Foreign Placement Agency or FPA – refers to any single proprietor, partnership, or corporation duly licensed in the host country to engage in the recruitment of foreign workers for placement with their clients.



15. Foreign Service Contractor/Staffing Agency/Labor-Hire or Dispatch Company – refers to any single proprietor, partnership, or corporation duly licensed in the host country to recruit foreign workers for its projects or for the projects of its clients, and remains as the employer of the deployed workers.
16. Jobs Fair – refers to an employment facilitation service that is a venue for licensed recruitment agencies to advertise job vacancies for the purpose of recruiting qualified job applicants.
17. Jobs Fair Authority (JFA) – refers to the authority granted to a licensed recruitment agency to conduct recruitment outside of its registered business address through participation in a jobs fair.
18. Jobsite – refers to the country/territory of employment as indicated in the DMW-approved employment contract.
19. Joint and Several Liability – refers to the nature of liability of the principal/employer and the licensed recruitment agency, for any and all claims arising out of the implementation of the employment contract involving an OFW. It shall likewise refer to the nature of liability of partners or officers and directors with the partnership or corporation over claims arising from an employer-employee relationship.
20. MWAAC – refers to the Migrant Workers Airport Assistant Center (formerly Labor Assistance Center or LAC).
21. LOA – refers to the Letter of Authority issued by the Department authorizing an accredited foreign principal or its representative/s to participate in the screening, interview, and selection of applicants for their approved job orders, in places outside the registered business address of the licensed recruitment agency as indicated in its Special Recruitment Authority.
22. License – refers to the document issued by the Secretary or his/her duly authorized representative authorizing a person, partnership or corporation to operate a recruitment agency.
23. Licensed Recruitment Agency – refers to any person, partnership or corporation duly authorized to engage in the recruitment and placement of workers for overseas employment.
24. Master Employment Contract – refers to the model employment agreement submitted by the principal/employer as defined under these Rules, which contains the terms and conditions of employment of each worker to be hired by such principal/employer, with such contract to be duly verified by the MWO or authenticated by the Philippine Embassy/Consulate if there is no MWO in whose jurisdiction the worksite is covered, and approved by the Department.
25. MWO – refers to the Migrant Workers Office (formerly Philippine Overseas Labor Office or POLO).
26. NBI – refers to the National Bureau of Investigation.
27. NLRC – refers to the National Labor Relations Commission.
28. Non-licensee – refers to a person, sole proprietor, partnership, or corporation without a license to engage in the recruitment and placement of OFW, or a licensed recruitment agency whose license has been revoked, cancelled, expired, or delisted from the roll of licensed recruitment agencies.
29. Overseas Employment Certificate (OEC)/ OFW Clearance– refers to a document issued to an OFW by the Department, attesting to the regularity of his/her recruitment, documentation, and registration as an OFW, which



- makes him/her eligible for overseas employment travel subject to Philippine immigration laws, and enables him/her to avail of the privileges granted to OFWs.
30. Overseas Filipino Worker (OFW) – refers to a Filipino who is to be engaged, is engaged, or has been engaged in remunerated activity in a country of which he or she is not an immigrant, citizen, or permanent resident or is not awaiting naturalization, recognition, or admission, whether land-based or sea-based regardless of status; excluding a Filipino engaged under a government-recognized exchange visitor program for cultural and educational purposes. For purposes of this provision, a person engaged in remunerated activity covers a person who has been contracted for overseas employment but has yet to leave the Philippines, regardless of status, and includes “Overseas Contract Workers”. The term “OFW” is synonymous with “Migrant Worker”.
  31. OWMS – refers to the OFW Welfare Monitoring System.
  32. OWWA – refers to the Overseas Workers Welfare Administration.
  33. PAOS – refers to the Post-Arrival Orientation Seminar.
  34. PDOS – refers to the Pre-Departure Orientation Seminar.
  35. PEOS – refers to the Pre-Employment Orientation Seminar.
  36. Placement Fee – refers to any and all amounts charged by a recruitment agency from a worker for its recruitment and placement services as prescribed by law and rules and regulations of the Secretary of the Department.
  37. Principal – refers to an employer or foreign placement agency hiring or engaging Filipino workers for overseas employment through a licensed private recruitment/manning agency, or through the government.
  38. POCB – refers to the Philippine Overseas Construction Board.
  39. Proponents – collectively refers to a Single Proprietor, One Person Corporation, or to all the Partners, Members of the Board of Directors, and/or Shareholders of any agency or entity that is subject to these Rules.
  40. Recruitment Agreement – refers to an agreement by and between the principal and the licensed recruitment agency or the Department defining their rights and obligations on the recruitment and employment of workers.
  41. Recruitment and Placement – refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referring, contracting services, promising or advertising for employment abroad, whether for profit or not.
  42. Registration of Worker – refers to the act of entering in the official records of the Department the names of overseas job seekers and contracted workers.
  43. Regular/Documented Overseas Filipino Worker – refers to one:
    - a. Who possesses a valid passport and appropriate visa or permit to stay and work in the receiving country; and
    - b. Whose contract of employment has been processed by the Department or MWO.
  44. Rehires – refers to the land-based workers who renewed their employment contracts with the same principal. The term “rehires” is synonymous to *Balik-Manggagawa* and returning worker, and refers to an Overseas Filipino Worker who has served or is serving his/her employment contract and is



- either: (a) returning to the same employer and the same job site; or (b) returning to the same employer in a new job site. It shall likewise include an Overseas Filipino Worker who has started his or her employment on-site with a new employer and is returning to the said employer.
45. **Reintegration** – refers to a holistic process by which an overseas Filipino or overseas Filipino worker, on his/her own or with the assistance of government and other duty bearers (private sector, development NGOs or organizations), returns to the Philippines permanently, in a comfortable and productive state, through a series of preparations or interventions geared towards his/her specific needs, goals, interest, capacities and potentials.
  46. **Repatriation** – refers to the process of bringing back distressed OFWs or human remains, and the transport of his/her personal effects. Emergency repatriation may be carried out in the event of any political unrest or natural calamities.
  47. **Service Fee** – refers to the amount paid to a licensed recruitment agency or to the Department (in the case of government-to-government hired workers) by foreign principals/employers, as payment for actual services rendered in relation to the recruitment and placement of workers.
  48. **Special Recruitment Authority** – refers to the authority granted to a licensed recruitment agency to conduct recruitment outside of its registered business address.
  49. **Standard Employment Contract** – refers to the DMW-prescribed contract containing the minimum terms and conditions of employment.
  50. **TESDA** – refers to the Technical Education and Skills Development Authority.
  51. **Underage Migrant Worker** – refers to one who is below the minimum age requirement for overseas employment as prescribed by law and prevailing rules and regulations.
  52. **Verification** – refers to the procedure being conducted or applied by the Labor Attaché to ensure that all the employment rights, benefits, and welfare of Filipino migrant workers at the worksite are duly protected.
  53. **WEDO** – refers to full-time and trained Welfare Desk Officers who are registered personnel of a licensed recruitment agency, or designated person of a foreign recruitment agency or foreign placement agency, tasked to monitor and report the status and condition of deployed OFWs, and resolve problems/complaints at the job site.

## **PART II LICENSING AND REGULATION**

### **RULE I**

#### **Private Sector Participation in the Overseas Employment Program**

**SECTION 1. Participation of the Private Sector.** The private sector shall participate in the recruitment of Filipino workers for overseas employment in accordance with these Rules and any subsequent guidelines that may be issued by the Department.

**SECTION 2. Who may participate; Required Capitalization.** Any Filipino citizen acting as a sole proprietor or a partnership, a one-person corporation, or a corporation,



at least seventy-five percent (75%) of the authorized and voting capital stock which is owned and controlled by Filipino citizens, may engage in the business of recruitment and placement of Filipino workers.

The sole proprietor and partnership shall have a minimum capitalization of Five Million Pesos (PhP5,000,000.00) and a minimum paid-up capital in cash of Five Million Pesos (PhP5,000,000.00) in the case of a corporation.

The sole proprietor, partnership, one-person corporation, or corporation should substantially maintain an equity at Five Million Pesos (PhP 5,000,000.00) during the duration of its license.

**SECTION 3. Who are Disqualified.** The following persons and entities are disqualified to participate or engage in the recruitment and placement of workers for overseas employment:

- a. Travel agencies and sales agencies of airline companies;
- b. Shareholders, officers or members of the Board of Directors of any corporation or partners in a partnership engaged in the business of a travel agency;
- c. Individuals, partners, officers or directors of an insurance company who make, propose or provide an insurance contract under the compulsory insurance coverage for agency-hired OFWs;
- d. Sole proprietors, partners, officers and/or members of the Board of Directors, including individuals with derogatory records, such as, but not limited to the following:
  1. Those convicted or against whom a probable cause is determined by a competent authority for the following:
    - a. Illegal recruitment;
    - b. Trafficking in Persons; or
    - c. Such other crimes or offenses committed in the course of, related to, or resulting from, illegal recruitment, or for crimes involving moral turpitude; or
  2. Those agencies whose licenses have been revoked for violation of RA 11641 (Department of Migrant Workers Act), RA 8042 (Migrant Workers and Overseas Filipinos Act of 1995), as amended, PD 442 (Labor Code of the Philippines), as amended, and RA 9208 (Trafficking in Persons Act of 2003), as amended, and their implementing rules and regulations;
  3. Those agencies whose licenses have been cancelled for violation of recruitment laws and regulations.
- e. Any individual included in the list of persons with derogatory record for violation of recruitment laws and regulations; and
- f. Any official or employee of the DMW, OWWA, DFA, DOJ, DOH, BI, IC, NLRC, TESDA, CFO, NBI, PNP, Civil Aviation Authority of the



Philippines (CAAP), international airport authorities, and other government agencies directly involved in the implementation of RA 11641 (Department of Migrant Workers Act), RA 8042 (Migrant Workers and Overseas Filipinos Act of 1995), as amended, PD 442 (Labor Code of the Philippines), as amended, and RA 9208 (Trafficking in Persons Act of 2003), and/or any of his/her relatives within the fourth civil degree of consanguinity or affinity.

A foreign recruitment agency, principal, or employer is likewise disqualified to own and/or participate in the management and/or operations of a licensed Philippine recruitment agency

**SECTION 4. Submission of Application.** Applications for the Issuance of a License to engage in the recruitment and deployment of OFWs shall be submitted to the Department's Licensing and Regulation Bureau (LRB).

## **RULE II Issuance of License**

### **A. APPLICATION**

**SECTION 5. Pre-Qualification Requirements.** Applicants for issuance of a license shall submit the documents/requirements for pre-qualification, as may be prescribed by the Department.

**SECTION 6. Payment of Filing Fee.** Upon receipt of the complete and compliant documentary requirements for the application of a new license, the Department shall require payment of a non-refundable filing fee of Fifty Thousand Pesos (PhP50,000.00) and submission of proof of payment thereof.

**SECTION 7. Panel Composition and Panel Interview.** The Proponents, including major shareholders, shall undergo a panel interview to ascertain their qualifications and fulfillment of the requirements under these Rules. If the Panel finds that the applicant is qualified, it shall be notified and required to submit post-qualification requirements.

The Members of the Panel shall be constituted to include representatives from different offices and bureaus of the Department.

**SECTION 8. Post – Qualification Requirements.** Upon receipt of the notification, the applicant shall submit, prior to the issuance of the provisional license, the post-qualification requirements as may be prescribed by the Department.

**SECTION 9. Assessment Prior to Issuance of License.** The Department shall assess the applicant's compliance with the post-qualification requirements, as may be prescribed by the LRB.

### **B. PROVISIONAL LICENSE**



**SECTION 10. Decision on the Application.** The Department shall notify the applicant in writing of the decision on the application.

**SECTION 11. Approval of the application for Provisional License.** The Department shall approve the application for a provisional license after the applicant has satisfied all the requirements.

The Department shall issue a provisional license which shall be valid within a non-extendible period of three (3) years from the date of issuance.

**SECTION 12. Grounds for Denial of Application.** An application for the issuance of license shall be denied, if the applicant fails to satisfy any of the requirements or provides or furnishes the Department with any false information or documents.

**SECTION 13. Payment of License Fee.** After compliance with all the requirements and the application for Provisional License has been approved by the Department, a license fee in the amount of Two Hundred Thousand Pesos (PhP200,000.00) shall be paid before the license is released.

**SECTION 14. Prohibition.** The agency granted with a provisional license shall not deploy domestic workers during the validity of the provisional license.

### **C. REGULAR LICENSE**

**SECTION 15. Application for Upgrading to Regular License.** Within three (3) months before the expiration of the provisional license, or at any time during its validity upon deployment of one hundred (100) workers, except domestic workers, to its new principal/s, the agency may apply for upgrading to a regular license upon submission of documents/requirements as may be prescribed by the Department.

**SECTION 16. Payment of License Fee.** After compliance with all the requirements and the application for a regular license has been approved by the Department, a license fee in the amount of Two Hundred Thousand Pesos (PhP200,000.00) shall be paid before the license is released.

**SECTION 17. Validity of a Regular License.** The regular license shall be valid for six (6) years from the date of issuance of the provisional license unless sooner revoked, terminated, suspended, or cancelled by the Secretary or his/her duly authorized representative.

### **D. RENEWAL OF LICENSE**

**SECTION 18. Renewal of License.** A licensed recruitment agency should submit an application for the renewal of its license within three (3) months prior to the expiration of its license. The application shall be supported by the documents as may be prescribed by the Department.

**SECTION 19. Payment for Renewal of License Fee.** After compliance with all the requirements and the application for renewal of license has been approved by the



Department, a license fee in the amount of Two Hundred Thousand Pesos (Php200,000.00) shall be paid before the license is released.

## **E. ESCROW DEPOSIT**

**SECTION 20. Maintenance of Escrow Deposit.** A licensed recruitment agency shall maintain at all times its escrow deposit in the minimum amount of One Million and Five Hundred Thousand Pesos (Php1,500,000.00). In case an additional escrow is required from the licensed agency due to its pending recruitment violation case/s, it shall maintain the escrow deposit of One Million and Five Hundred Thousand Pesos (Php1,500,000.00) plus the additional escrow.

Those with existing licenses shall, within two (2) years from effectivity hereof, increase their escrow deposit to One Million and Five Hundred Thousand Pesos (Php1,500,000.00).

The escrow deposit shall answer for all valid and legal claims arising from contracts of employment and violations of the conditions for the grant and use of the license, including fines imposed by the Department. The escrow shall likewise guarantee compliance with prescribed recruitment procedures, rules and regulations, appropriate terms and conditions of employment, and relevant issuances of the DMW.

The escrow deposit is separate from the capitalization requirement.

In case the escrow deposit has been garnished, the licensed recruitment agency shall replenish the escrow deposit within thirty days (30) from receipt of the Notice to Replenish Escrow Deposit. Failure to comply with such Notice will result in the suspension of the license of the recruitment agency until such time the agency has complied with the Notice to Replenish.

**SECTION 21. Additional Escrow Deposit.** If during the application for the renewal of license, the licensed recruitment agency has pending recruitment violation case/s, an additional escrow deposit of Seventy-Five Thousand Pesos (Php75,000.00) per case shall be required.

If in the succeeding renewal, the licensed recruitment agency had decreased its pending cases, the Department shall allow the withdrawal of the corresponding additional escrow deposit.

**SECTION 22. Release of Deposit in Escrow.** The deposit in escrow of a licensed recruitment agency that voluntarily surrenders its license or has not renewed its license shall be released upon submission of documents/requirements as may be prescribed by the Department.

**SECTION 23. Monitoring Compliance with Conditions for the Issuance of the License.** The Department shall monitor the compliance of licensed recruitment agencies with the conditions for the issuance of a license, recruitment laws, and rules and regulations on the use of a license.



## F. COMMON PROVISIONS

**SECTION 24. Derogatory Record after Issuance/Renewal of License.** The license of a single proprietorship, partnership or one-person corporation, shall be suspended, until cleared by the Department, should any derogatory record as provided in these Rules be found to exist against the single proprietor, any or all of the partners, or the one-person corporation, as the case may be.

The acknowledgment or appointment of any officer or employee of any licensed recruitment agency may be cancelled or revoked by the Department at any time, with *due notice to the licensed recruitment agency concerned, whenever said officer or employee is found to have any derogatory record.*

**SECTION 25. Non-Transferability of License.** No license shall be used, directly or indirectly, by any person other than the one in whose favor it was issued, nor at any place other than that stated in the license, nor may such license be transferred, conveyed, or assigned to any other person or entity.

**SECTION 26. Revocation of License of Sole Proprietorship.** The license of the sole proprietorship shall automatically be revoked upon the death of the sole proprietor. The next-in-rank officer of the agency shall, within ten (10) days, report such death to the Department. Failure to report shall automatically include such next-in-rank officer in the list of persons with derogatory record.

**SECTION 27. Revocation of License of a Partnership Due to Death or Withdrawal of Partner.** Unless otherwise provided in the Articles of Partnership, the license of a partnership shall be automatically revoked upon the death or withdrawal of a partner which materially interrupts the course of business or results in the dissolution of the partnership. The surviving partner/s shall, within ten (10) days, report such death or withdrawal to the Department. Failure to report shall automatically include the surviving partner/s in the list of persons with a derogatory record.

**SECTION 28. Change in the Management and Operation of One Person Corporation (OPC) due to the Death or Temporary or Permanent Incapacity of the Incorporator/Sole Stockholder.** The nominee or the alternative nominee of the OPC shall manage and operate the licensed recruitment agency in case of the death or incapacity of the incorporator/sole stockholder of the OPC; Provided that the nominee must have all the qualifications and none of the disqualifications to engage in the business of recruitment. Within thirty (30) days after the death or incapacity of the incorporator/sole stockholder, the documentary requirements prescribed by the Department should be submitted.

*Failure to report the death or incapacity of the incorporator within the 30-day period given shall cause the revocation of the OPC's license and the inclusion of the nominee in the derogatory record.*

Once a temporary incapacity ends, the incorporator/sole stockholder can resume the management and operation of the OPC upon duly informing the Securities and Exchange Commission and acknowledgment of the LRB.



In case of death or permanent incapacity, the nominee shall manage and operate the OPC until the legal heirs of the incorporator/single stockholder have been lawfully determined and have agreed among themselves who shall replace the incorporator/single stockholder.

**SECTION 29. Upgrading, Merger, or Consolidation of Licensed Recruitment Agencies.** The upgrading, merger, or consolidation of licensed recruitment agencies shall be undertaken in accordance with the regulations of the Securities and Exchange Commission, without prejudice to the determination by the Department of the qualifications of the new partners or directors. The upgraded licensed recruitment agencies, the surviving corporation, or the new corporation, as the case may be, shall inform the Department of such changes within thirty (30) days from confirmation by the Securities and Exchange Commission of such upgrading, merger or consolidation.

**SECTION 30. Change of Business Type from Sole Proprietorship/Partnership to Partnership/Corporation.** The Department shall be notified of the change in the business type from sole proprietorship to partnership or corporation, or from partnership to corporation within thirty (30) days from such change. The licensed recruitment agency must submit the documentary requirements prescribed by the LRB, after which the Proponent/s shall be subjected to a confirmatory interview.

**SECTION 31. Transfer of Shares of Stocks.** A licensed recruitment agency operating as a corporation shall notify the Department of any transfer of shares of stocks of the corporation within thirty (30) calendar days from approval of such transfer by SEC and submit the documentary requirements prescribed by the LRB.

**SECTION 32. Acknowledgment of Corporate Investor.** The licensed recruitment agency shall, within thirty (30) calendar days from the transfer of shares to a corporate investor, submit the required documents to the LRB for acknowledgement of the corporate investor and updating of its shareholdings.

**SECTION 33. Change in the Composition of Partners/Board of Directors.** The licensed recruitment agency shall notify the Department of every change in the composition of the partnership or board of directors within thirty (30) calendar days from the date of such change, and submit the prescribed supporting documents to the LRB.

In case of change in the controlling shares or composition of the board of directors/ partnership, or any transfer of control in the operations of a licensed recruitment agency, the new set of board of directors or partner/s, or the new majority shareholder/s, as the case may be, shall be subject to a confirmatory interview to ascertain their qualifications as provided in these Rules.

**SECTION 34. Appointment, Dismissal, or Resignation of Officers and Personnel.** The licensed recruitment agency shall notify the LRB of the appointment, dismissal, or resignation of any officer, nominee, or personnel of the agency within thirty (30) calendar days from such appointment, dismissal, or resignation. In case of appointment, the LRB shall require the submission of supporting documents, as may be prescribed by the Department.



**SECTION 35. Transfer of Business Address.** A licensed recruitment agency may transfer its business address upon submission of the required documents and inspection. The Department shall acknowledge such transfer after an assessment of compliance with space, office layout, and equipment requirements has been completed.

**SECTION 36. Additional Office Space.** A licensed recruitment agency shall report to the Department the acquisition of additional office space. The additional office space shall be adjacent to the registered main office or within the same building. Office spaces located at a different building shall be considered adjacent to the registered business address, if it is situated not more than one hundred (100) meters from the registered business address.

The notification for the acquisition of an additional office space shall be accompanied with supporting documents as may be provided in another issuance.

### **G. BRANCH OFFICE**

**SECTION 37. Establishment of a Branch.** A licensed recruitment agency may file an application for an authority to establish a branch in a place other than the city or municipality where its registered main office or other branch is located. The application shall be supported by documentary requirements as may be prescribed by the LRB.

**SECTION 38. Validity of Authority to Operate a Branch Office.** The validity of the Authority to operate a Branch Office shall be coterminous with the validity of the license unless sooner revoked or cancelled by the Department, or surrendered by the agency.

### **RULE III**

#### **Overseas Employment and Labor Laws Compliance System**

##### **A. ASSESSMENT OF AGENCIES PRIOR TO THE ISSUANCE OF A LICENSE (POST-QUALIFICATION ASSESSMENT)**

**SECTION 39. Scope of Assessment.** The Post-Qualification Assessment shall cover compliance with the required minimum office space, facilities, and equipment under the prescribed guidelines. The Assessment shall be conducted after the applicant has complied with the pre-qualification requirements and upon determination that the applicant is qualified after the panel interview.

**SECTION 40. Issuance of Authority to Assess.** The LRB Director or his/her *authorized representative* shall issue the *Authority to Assess*, indicating therein the names of the inspectors, the applicant and its registered address, the purpose of the assessment, and the validity period of the authority.

**SECTION 41. Conduct and Report of Assessment.** The Inspectors shall proceed to the establishment and present the Authority to the applicant agency. A responsible representative of the applicant shall receive and sign a copy of the Authority. The Assessment shall be conducted in the presence of such representative.



## **B. REGULAR ASSESSMENT**

**SECTION 42. Scope of Regular Assessment.** The Assessment shall be undertaken as a requirement for the upgrading of provisional license to a regular license, renewal of license and branch authority, transfer of office, additional and giving-up of office space, and once every two (2) years after issuance or renewal of license.

The assessment report shall be submitted to the LRB Director of the Department within twenty-four (24) hours from the date of inspection.

**SECTION 43. Issuance of Authority to Assess.** The LRB Director or his/her duly authorized representative shall issue the authority to assess to its Inspectors, indicating their names, the licensed recruitment agency to be assessed, the purpose of the assessment, and the validity period of the authority.

The LRB Director or his/her duly authorized representative may also request the DMW Regional Director for the conduct of assessment of licensed recruitment agencies, including their branches.

**SECTION 44. Conduct and Report of Assessment.** The Inspectors shall proceed to the establishment and present the Authority to the agency. A responsible representative of the applicant shall receive and sign a copy of the Authority. The Assessment shall be conducted in the presence of such representative.

**SECTION 45. Issuance of Notice of Results.** The Inspectors shall issue the Notice of Results indicating compliance or deficiencies, if any, with DMW rules, labor laws, and social legislation. The licensed recruitment agency representative shall acknowledge such results.

**SECTION 46. Compliance with Deficiencies.** In case of non-compliance, the licensed recruitment agency shall comply with the deficiencies or findings in accordance with the Inspection Manual to be issued by the Department.

## **C. SALVO/SPOT INSPECTION**

**SECTION 47. Scope of Salvo/Spot Inspection.** The Department shall undertake inspection in response to a complaint or report of illegal recruitment activities and recruitment violations. Such inspection shall be conducted in accordance with the DMW Labor Laws Compliance Manual.

### **RULE IV**

#### **Licensing of Companies Registered with Philippine Overseas Construction Board (POCB)**

**SECTION 48. Licensing of POCB-Registered Companies.** POCB-registered companies with overseas projects may apply in writing for a special license to deploy their workers to their overseas projects, subject to submission of the following requirements:



- a. Articles of Incorporation;
- b. A certified true copy of the POCB certificate of registration;
- c. POCB certification of an existing overseas project;
- d. Affidavit of Undertaking that the company will submit the renewed POCB registration upon its expiration; and
- e. Proof of payment of the non-refundable filing fee of Fifty Thousand Pesos (PhP50,000.00).

**SECTION 49. Payment of Fees.** Upon approval of the application, the applicant shall:

- a. Pay a license fee of One Hundred Thousand Pesos (PhP100,000.00); and
- b. Submit an Escrow Deposit Agreement of Seven Hundred Fifty Thousand Pesos (PhP750,000.00) with an accredited bank authorized to handle trust accounts by the Bangko Sentral ng Pilipinas.

**SECTION 50. Issuance of Special License.** The Department shall issue a special license to the POCB-registered companies provided all the requirements are met by the applicant. Only applications with complete supporting documents shall be deemed filed.

**SECTION 51. Validity Period of Special License.** The special license shall be valid for five (5) years from date of issuance subject to the validity of the POCB-registration, or unless sooner revoked, terminated, suspended, or cancelled by the Secretary or his/her duly authorized representative.

**SECTION 52. Requisites for Renewal.** Within three (3) months prior to the expiration of the license, the POCB-registered company shall submit a written application together with the following requirements:

- a. Certified copy of valid POCB Certificate of Registration;
- b. Bank Certificate indicating that the escrow of Seven Hundred Fifty Thousand Pesos (PhP750,000.00) is still intact;
- c. POCB certification of an existing overseas project; and
- d. Proof of payment of license fee of One Hundred Thousand Pesos (PhP100,000.00).

**SECTION 53. Prohibition on Collection of Fees from OFW.** POCB-registered companies shall not collect any fee from the workers deployed to their projects overseas.

**SECTION 54. POCB-registered Companies without Overseas Projects.** POCB-registered companies without POCB-certified overseas projects that intend to deploy workers overseas may apply for a regular license pursuant to Rule II, Part II of these Rules.

## RULE V Fees, Costs and Contributions



**SECTION 55. Fees and Costs Chargeable to the OFW.** The Overseas Filipino Worker shall only pay the following fees and costs:

a. Documentation costs:

1. Passport;
2. NBI/Police/Barangay Clearance;
3. PSA authenticated birth certificate;
4. Transcript of Records and diploma issued by the school, certified by the CHED and authenticated/apostilled by the DFA;
5. Professional license issued by the PRC, authenticated by the DFA;
6. Certificate of Competency issued by TESDA or other competent certifying body for the job applied for; and
7. DOH prescribed medical/health examinations, based on the host country's medical protocol.

b. Membership with Philhealth, Pag-IBIG and the Social Security System, pursuant to existing laws.

**SECTION 56. Placement Fee.** A placement fee may be charged against the Overseas Filipino Worker equivalent to one (1) month basic salary specified in the DMW-approved contract, except for the following:

- a. Domestic workers; and
- b. Workers to be deployed to countries where the prevailing system, either by law, policy or practice do not allow, directly or indirectly, the charging and collection of recruitment/placement fee.

The worker shall pay the placement fee to the licensed recruitment agency only after signing the DMW-approved contract. The agency must issue a BIR-registered receipt stating the date and purpose of payment, and the exact amount paid.

**SECTION 57. Payment of Insurance Premium.** The licensed recruitment agency shall be responsible for the payment of the premium for the compulsory insurance coverage under Section 37-A of RA 8042, as amended.

**SECTION 58. Costs and Fees Chargeable Against the Principal/Employer.** The costs of recruitment and placement shall be the responsibility of principal/employer, which cover payment for the following:

- a. Visa, including the stamping fee;
- b. Work permit and residence permit;
- c. Round trip airfare;
- d. Transportation from the airport to the jobsite;
- e. DMW processing fee;
- f. OWWA membership fee; and
- g. Additional trade test/assessment, if required by the principal/employer.



**SECTION 59. Prohibition Against Charging of Other Fees.** No other fees in whatever amount, form, manner or purpose shall be charged against the Overseas Filipino Worker, except those specified in this Rule.

**SECTION 60. Service Fees.** Licensed recruitment agencies shall charge principals/employers service fees as may be allowed by law, and prevailing rules and regulations.

## **RULE VI**

### **Skills Test and Medical Examination for Overseas Employment**

**SECTION 61. Skills Testing for Applicant.** The licensed recruitment agency shall only require an applicant for overseas employment to undergo a skills test in a TESDA-accredited skills testing center only after the licensed recruitment agency and/or its principal/employer has pre-qualified him/her for work covered by an approved job order. The licensed recruitment agency shall ensure that the appropriate skills test shall be administered to the worker, corresponding to the position/job category applied for.

**SECTION 62. Medical/Health Examination.** The licensed recruitment agency shall require an applicant to undergo a medical/health examination as required by the *medical protocol of the host country*. The medical examination shall be conducted through a DOH-accredited medical clinic of his/her choice, and only after reasonable certainty that the worker shall be hired by the principal/employer under an approved job order.

The licensed recruitment agency shall ensure that the coverage of medical examination is in accordance with the standard requirements of the host government and the principal/employer.

## **RULE VII**

### **Recruitment Outside Registered Office**

**SECTION 63. Special Recruitment Authority.** A licensed recruitment agency may conduct recruitment activities outside its registered address by securing a Special Recruitment Authority prior to the conduct of the recruitment.

**SECTION 64. Requirements for the Issuance of Special Recruitment Authority.** A Special Recruitment Authority (SRA) may be issued upon submission of the requirements as may be provided under the prescribed guidelines of the LRB.

**SECTION 65. Filing of Application.** An application for issuance of SRA shall be filed at least three (3) days prior to the date of the activity with any of the following DMW offices:

- a. DMW Central Office;
- b. DMW Regional Center or Regional Extension Unit (REU) under whose area of jurisdiction the agency is located; or
- c. DMW Regional Center or REU under whose area of jurisdiction the special recruitment activity will be conducted.



**SECTION 66. Validity of Special Recruitment Authority.** The SRA shall be valid for the date and venue as indicated, unless extended, modified, or revoked by the DMW for violation of the conditions for its issuance.

**SECTION 67. Letter of Authority (LOA).** The licensed recruitment agency shall notify the Department of the participation of an accredited principal/employer or its registered/authorized representative in a recruitment activity within its registered office, within three (3) days prior to the activity. If the accredited principal/employer or its registered authorized representative shall participate in a recruitment activity outside its registered office, the application for LOA shall be filed at least three (3) days prior to the date of the activity.

**SECTION 68. Venue and Supervision of Recruitment Activities Outside the Registered Office.** Recruitment activities outside the registered office of the licensed recruitment agency shall be conducted only at venues indicated in the Authority, and shall be supervised by the Department in coordination with the DOLE or Public Employment Service Office (PESO).

**SECTION 69. Terminal Reports.** A Terminal Report shall be submitted to the DMW office which issued the SRA immediately after the activity, and a Progress Deployment Report within ninety (90) days after the activity. No subsequent SRA shall be issued until the licensed recruitment agency has submitted the required reports.

**SECTION 70. Participation in Jobs Fair; Conduct of Jobs Fair.** A licensed recruitment agency may participate and conduct recruitment activities based on DMW-approved job orders, provided that a Jobs Fair Authority (JFA) is secured from the DMW. The requirements and procedures for issuance of a JFA shall be prescribed by the Department.

The DMW may organize an Jobs Fair in coordination with the Local Government Unit (LGU) and/or with the PESO.

**SECTION 71. Participation in a DOLE/PESO-Organized Jobs Fair.** The DMW may participate in a DOLE/PESO organized jobs fair upon written invitation/notification.

**SECTION 72. Cancellation of SRA/LOA/JFA.** The DMW reserves the right to cancel the SRA/LOA/JFA for violation of the conditions set therein.

## **RULE VIII**

### **Advertisement for Overseas Job Vacancies**

**SECTION 73. Advertisement for Overseas Employment.** Advertisements for overseas employment shall include the publication of job vacancies in any form of communication, such as press releases, printed materials, or advertisements in radio, television, cinemas, internet, social media and other electronic forms, billboards, moving and human advertisements, and ad boards.

**SECTION 74. Advertisement of Job Vacancies with Approved Job Orders.** Licensed recruitment agencies may advertise job vacancies covered by approved job



orders of accredited principals/employers without prior approval from the Department and within the validity of its accreditation. The advertisement shall indicate information as may be required by the Department through a separate guideline.

**SECTION 75. Advertisement for Manpower Pooling.** Licensed recruitment agencies may advertise for manpower pooling, subject to prior approval of the Department and compliance with the following conditions:

- a. The advertisement shall indicate the phrases "for manpower pooling only", "no fees in any form and/or purpose will be collected from the applicants", and "beware of illegal recruiters and human traffickers", using large font in the advertisement; and
- b. The advertisement shall specify the name, address, and DMW license number of the agency, name and worksite of the prospective or accredited principal/employer, and the skill categories and qualification standards.

**SECTION 76. Advertisement for Overseas Job Vacancies by Principals/Employers.** Accredited principals/employers may advertise overseas job vacancies only through DMW-licensed recruitment agencies or through the Department.

**SECTION 77. Monitoring of Advertisements.** The Department shall monitor all advertisements, and non-compliant advertisements are considered as recruitment violations which shall be penalized in accordance with the schedule of offenses and penalties.

## **RULE IX**

### **Departure and Arrival of OFW**

**SECTION 78. Departure of Workers.** All departing OFWs shall present their OECs/OFW Clearance to the Immigration Officer. For this purpose, the Department, in coordination with the Bureau of Immigration, shall establish a one-stop validation procedure in all exit points for all departing OFWs.

In the absence of the one-stop validation procedure, OFWs shall present their OECs/OFW Clearance to the DMW-MWAAC.

**SECTION 79. Issuance of OEC/OFW Clearance at MWAAC.** The Department may issue OEC/OFW Clearance at the MWAAC only to the following:

- a. Workers on special/emergency leave; and
- b. Cabin crew/flight attendants.

**SECTION 80. Lost OEC/OFW Clearance.** In case of lost OEC/OFW Clearance, OFWs may request in writing a certification from the MWAAC or the Department stating that the worker has been issued with an OEC/OFW Clearance and specifying the details of the lost OEC/OFW Clearance.



**SECTION 81. Clearance for Special Cases.** The Department shall issue a special clearance for travel abroad in accordance with guidelines which may be issued by the Department.

**SECTION 82. Arrival of OFWs.** The Department, through the MWAAC, shall support OWWA and other government agencies in providing assistance to arriving OFWs, particularly those who are in distress.

## **RULE X Illegal Recruitment**

**SECTION 83. Who are Liable for Illegal Recruitment.** The persons criminally liable for acts constituting illegal recruitment and other unlawful/prohibited acts under the Labor Code of the Philippines, as renumbered, R.A. 8042, as amended by R.A. 10022, and other relevant laws are the principals, accomplices and accessories. In case of juridical persons, the officers having ownership, control, management or direction of their business who are responsible for the commission of the offense and the responsible employees/agents thereof shall be liable.

**SECTION 84. Independent Administrative Action.** The institution of criminal action is without prejudice to any administrative action against the licensee or holder of authority cognizable by the Department, which could proceed independently of the criminal action.

## **RULE XI Anti-Illegal Recruitment and Anti-Trafficking in Persons Programs**

**SECTION 85. Anti-Illegal Recruitment and Anti-Trafficking in Persons Programs.** The Department, through the Migrant Workers Protection Bureau (MWPB), its Regional Offices, and Migrant Workers Offices overseas, shall adopt policies and procedures, and prepare and implement programs towards the prevention and eradication of illegal recruitment and trafficking in persons committed by means of, or in the guise of recruitment for overseas employment such as, but not limited to, the following:

- a. Legal assistance and counseling to victims on criminal and/or administrative actions;
- b. Investigation and conduct of operations such as surveillance of persons and entities, closure of establishments, and assistance to victims during entrapment operations/arrest;
- c. Prosecution of cases, including legal assistance to victims during preliminary investigation and during trial, in collaboration with prosecutors from the Department of Justice (DOJ); and
- d. Information and education campaign on overseas employment and on the anti-illegal recruitment and anti-trafficking in persons program.

The Department may initiate proceedings, both criminal and administrative in nature, based on confirmed reports of illegal recruitment activities and human trafficking.



Whenever necessary, the Department shall coordinate with other relevant agencies and entities in the implementation of said programs.

**SECTION 86. Issuance of Migrant Workers Protection Bureau Clearance.** The MWPB shall issue a clearance to certify that a person is not included in the List of Persons with Derogatory Record or in the blacklist of persons involved in illegal recruitment and trafficking in persons cases.

**SECTION 87. Coordination with Regional Offices.** The powers and functions of the MWPB shall be without prejudice to the provision of legal assistance to victims, the conduct of investigation and special operation, and the filing of cases for illegal recruitment, trafficking in persons, and related cases by the Regional Offices within their respective territorial jurisdictions, international ports and seaports, included. These, however, shall be coordinated with and reported to the MWPB for purposes of documentation, monitoring, and inter-agency coordination.

**SECTION 88. Coordination with Migrant Workers Offices.** The powers and functions of the MWPB shall be without prejudice to the provision of legal assistance to victims, the conduct of investigation, and the filing of relevant cases by the MWOs within their respective jurisdictions, subject to domestic and other applicable laws and regulations of the host country. These, however, shall be coordinated with and reported to the MWPB for purposes of documentation, monitoring, and inter-agency coordination.

Further, the MWOs may coordinate with the MWPB in the investigation and preparation of pleadings and complaint-affidavits for Overseas Filipino victims of illegal recruitment, trafficking in persons, and related cases within their respective jurisdictions.

## **RULE XII**

### **Complaints and Reports filed with the Department**

**SECTION 89. Receiving Complaints.** Victims of illegal recruitment and related cases which are administrative or criminal in nature may file with the Department a report or complaint in writing and under oath.

**SECTION 90. Legal Assistance.** The Department shall provide free legal service to victims of illegal recruitment and related cases which are administrative or criminal in nature in the form of legal advice, assistance in the preparation of complaints and supporting documents, and institution of criminal actions.

**SECTION 91. Complaints/Reports not cognizable by the Department.** When, upon evaluation based on the preliminary examination of the complainants and available records, the MWPB or the operating unit assigned to the complaint/report determines that the complaint/report does not involve overseas employment matters, or similar cases which do not fall under the jurisdiction of the Department, the MWPB or operating unit shall refer the matter to the proper office or government agency and instrumentality for other appropriate action.

## **RULE XIII**



## **Proceedings Before the Department**

**SECTION 92. Conduct of Surveillance.** The Department, through the MWPB and the Regional Offices may conduct investigation and surveillance on alleged illegal recruitment activities, trafficking in persons cases, or recruitment violations.

For this purpose, the Department may seek the assistance of law enforcement authorities in the conduct of surveillance.

Upon the termination of surveillance operations, a report supported by affidavits and other evidence shall be submitted to the MWPB Director or the Regional Director, as the case may be.

**SECTION 93. Issuance of Closure Order.** Upon the determination of the MWPB Director or the Regional Director that the activities of a non-licensee constitute a danger to national security and public order or may lead to further exploitation of job seekers, the Undersecretary for Licensing and Adjudication shall issue a Closure Order.

**SECTION 94. Implementation of Closure Order.** The Closure Order shall be served upon the offender or the person in charge of the subject establishment. The closure shall be effected by sealing and padlocking the establishment, and posting notices in bold letters of such closure in conspicuous places in the premises of the establishment. The assistance and support of local government units and law enforcement agencies may be requested for this purpose.

The MWPB Director or the Regional Director concerned shall also recommend the immediate cancellation/revocation of the business name and/or permit of the closed establishment.

**SECTION 95. Effect of Closure Order.** All officers of the entity responsible for the illegal recruitment activity shall be ordered included in the blacklist of persons involved in illegal recruitment and trafficking of OFWs and the List of Persons with Derogatory Record, and shall be disqualified from participating in the overseas employment program of the government.

**SECTION 96. Institution of Criminal Action.** The Secretary, the MWPB Director, the Regional Director, or any aggrieved person may initiate the corresponding criminal action with the Department of Justice.

**SECTION 97. Re-Opening of Establishment.** A Motion to Re-open an Establishment subject of a Closure Order may only be filed by the concerned person/entity on the grounds provided under prevailing laws, rules, and regulations.

**SECTION 98. Lifting of a Closure Order.** A verified Motion to Lift a Closure Order may be filed with the MWPB Director or the Regional Director within ten (10) calendar days from the date of implementation thereof, who shall then determine and make a recommendation whether such person/entity is, directly or indirectly, not involved in illegal recruitment activities. The Undersecretary for Licensing and Adjudication, in turn, shall decide whether to grant or deny such Motion.

The lifting of a Closure Order is without prejudice to the filing of a criminal action.

**SECTION 99. Appeal.** The Order of the Undersecretary for Licensing and Adjudication denying the Motion to Lift a Closure Order or Motion to Re-open Establishment, may be appealed to the Secretary within fifteen (15) days from receipt thereof.

Any Motion for Reconsideration shall be treated as an appeal.

**SECTION 100. Monitoring of Closure Orders.** The MWPB and/or the Regional Offices shall monitor establishments that are subject of Closure Orders. Establishments violating a Closure Order shall be penalized for contempt as provided under the Implementing Rules and Regulations of R.A. No. 11641.

## **RULE XV Accommodation Facilities**

**SECTION 101. Accommodation Facilities.** All accommodation facilities provided by either the Philippine recruitment agency or the foreign principal/employer shall provide OFWs with adequate provisions such as food, drinking water, beds, blankets, toilet facilities, and other amenities to ensure decent and humane living conditions, free of charge.

In no case shall the travel and employment documents of the OFWs be withheld from them, nor shall the applicant be prevented from freely leaving the accommodation house/housing facility or from communicating or contacting their family and loved ones.

The respective MWOs shall ensure the compliance of the foreign principal/employer with the foregoing standards as part of the requirements in the renewal of accreditation.

**SECTION 102. Quarterly Reports.** Recruitment agencies are required to submit quarterly reports, attested by the caretaker/house manager, to the Department on the occupancy of their accommodation facility, attaching thereto the copies of the logbook, photos of the facilities, and other requirements prescribed by the Department.

Failure to submit the report shall be a ground for imposition of administrative sanction pursuant to these Rules.

## **PART III PLACEMENT BY THE PRIVATE SECTOR**

### **RULE I Accreditation and Registration of Principals/Employers**

**SECTION 103. Accreditation of Principals/Employers.** The authority of the Department to accredit principals/employers is hereby delegated to the MWO. In the



exercise of the latter's primary and concurrent jurisdictions, the following rules shall govern:

- a. All documents for accreditation shall be verified by the MWO, which shall also issue the corresponding Accreditation Certificate in accordance with the guidelines under Section 104 hereof.
- b. In the absence of the MWO, the documents shall be duly authenticated, or in the case of Apostilled documents, acknowledged, by the Philippine Embassy or Consulate which has jurisdiction over the jobsite, in which case, the same shall be forwarded to the Department for the issuance of an Accreditation Certificate.

In cases where there is no Philippine Embassy or Consulate at the jobsite, the principal/employer shall submit the documents to the Department for attestation and issuance of an Accreditation Certificate. The Department shall charge attestation fees as may be allowed by the Secretary and upon prior approval of the Department of Finance and other concerned agencies.

**SECTION 104. Requirements for Accreditation of the Principal/Employer.** The requirements for MWO Verification and Accreditation of Principals/Employers shall be prescribed by the Department, which include, among others, the Recruitment Agreement or Special Power of Attorney, Job Order, and Master Employment Contract.

The accreditation of principals with international operations and FPAs with contractors outside the country where it is established shall be governed by the guidelines to be issued by the Department.

The Department/MWO shall issue, upon full compliance with the requirements, a Certificate of Accreditation duly signed by an authorized officer.

**SECTION 105. Registration of Principal/Employer.** The DMW shall register a principal/employer duly accredited by the MWO upon submission of the Certificate of Accreditation, including the supporting documents.

**SECTION 106. Registration of POCB-registered Projects.** The Department shall register POCB-registered projects upon submission of the following requirements:

- a. Project authorization from POCB including manpower requirement of the project, compensation, and mobilization schedule; and
- b. Master employment contract.

**SECTION 107. Validity of Accreditation.** The accreditation shall be valid for no more than five (5) years.

**SECTION 108. Suspension of Accreditation by the MWO.** The MWO may suspend accreditation for a period not exceeding sixty (60) days, based on any of the following grounds:

- a. Refusal or unreasonable failure to act on any request for assistance or

- repatriation of distressed OFWs;
- b. Deliberate violation/non-compliance of the principal/employer with its contractual and/or legal obligations to its hired OFW/s;
  - c. When found to have hired and employed an OFW who is either a minor or below the prescribed minimum age requirement;
  - d. Continued processing and deployment of the OFWs for the principal/employer will lead to the further exploitation of any or all of its applicants and OFWs or pose imminent danger to the lives and safety of its OFW/s; or
  - e. Other circumstances analogous to the foregoing.

**SECTION 109. Procedures for Suspension of Accreditation.** Upon receipt of an advice, complaint, or report of an alleged violation, the MWO may issue an Order of Suspension of the accreditation based on initial evaluation if there exists substantial ground/s for suspension. The Order shall have the effect of suspending the documentary processing of the principal/employer at the MWO and the Department. The MWO shall notify the Department of the suspension of the accreditation imposed against the principal/employer.

The MWO shall require the principal/employer to submit their Comment within a period of five (5) days from receipt of the Order of Suspension. After evaluation and investigation, the suspension of accreditation may be lifted upon satisfactory settlement of OFWs' claim/s or compliance with the conditions for lifting the suspension. Otherwise, the MWO may make a recommendation to the Department to disqualify the principal/employer from participating in the overseas employment program, which should be supported by sworn statements or any other appropriate documentary evidence.

**SECTION 110. Termination of Accreditation and Registration.** The accreditation of a principal/employer shall be deemed terminated on any of the following grounds:

- a. Expiration of the principal's/employer's business license or cessation of business or recruitment activity, after a period of one (1) year from expiration or cessation;
- b. Upon written mutual agreement by the principal/employer and the licensed recruitment agency to terminate the agreement; or
- c. Other grounds analogous to the foregoing.

**SECTION 111. Validity of Manpower Request/Job Order.** Job orders approved by the Department shall be valid for a period of three (3) years. In the approval of job orders, the MWO shall determine the proposed compensation package based on its periodic review of the prevailing employment standards and wage rates at the destination country.

**SECTION 112. Renewal of Accreditation.** The accreditation may be renewed at the request of the principal/employer or licensed recruitment agency and upon submission of the reconfirmed recruitment agreement and new job order.



**SECTION 113. Multiple Accreditation of Principal/Employer.** The principal/employer may be accredited up to a maximum of five (5) licensed recruitment agencies in accordance with the guidelines as may be prescribed by the Department.

**SECTION 114. Transfer of Accreditation.** The accreditation of a principal/employer may be transferred to another licensed recruitment agency, provided, that:

- a. There is no downgrading of the compensation package adopted by the principal with the licensed recruitment agency to which it is currently/previously accredited;
- b. The transferee agency shall assume full and complete responsibility for all contractual obligations of the principal/employer to the OFWs originally recruited and deployed by the former licensed recruitment agency, by submitting to the MWO or the Department, as the case may be, an undertaking to that effect.

In cases of repatriation of distressed workers or return of the remains of the deceased employees, both transferee and transferor agencies shall be jointly responsible for the said obligations; and

- c. The principal/employer must have no pending disciplinary action case.

For this purpose, any accreditation within six (6) months immediately following its cancellation by the principal/employer shall be deemed a transfer of accreditation.

**SECTION 115. Action on Applications for Transfer of Accreditation of a Principal/Employer with Outstanding Obligations.** Money claims or obligations arising out of the recruitment agreement shall not prevent the MWO or the Department from acting on the request for transfer of registration or accreditation, if public interest so requires.

Aside from non-compliance with Section 114, the transfer of accreditation may be deferred under any the following circumstances:

- a. There are several pending requests for the processing of workers filed before the Department;
- b. There are applicant workers who already signed their respective employment contracts, issued with employment visas and completed all of their needed documents for deployment;
- c. There are pending requests for the repatriation of its workers; and
- d. In any analogous case where the applicants and its workers will be prejudiced by the immediate transfer of accreditation.

The transfer of accreditation may be given due course upon resolution of the above issues and/or circumstances.

**SECTION 116. Accreditation of Principal/Employer in Countries Covered by a Special Agreement.** The accreditation of a principal/employer in countries covered by any special agreement entered into by the Philippine government shall be in accordance with the guidelines prescribed by the Department.

## **RULE II**

### **Documentation and Deployment of OFW**

**SECTION 117. Deployment of OFW.** The State shall allow the deployment of OFWs only in countries where the rights of OFWs are protected, as provided under Section 4 of R.A. No. 8042, as amended by R.A. No. 10022.

**SECTION 118. Allowable Visa Usage.** No Visa Usage undertaking will be allowed for domestic workers and any household-based positions.

In the event where there will be discrepancy in the actual job position with the job title provided in the employment visa, an OEC/OFW Clearance may be issued, provided that the following conditions are met:

- a. The visa category is related to the workers' position or in line with the principal's nature of business;
- b. The recruitment agency executes an Undertaking on Visa Usage;
- c. The worker is aware of the visa discrepancy situation and has executed a Declaration of Awareness and Consent; and
- d. The destination country allows such practice.

**SECTION 119. Deployment of OFW to Companies and Contractors with International Operations in Countries not Certified by the DFA as Compliant.** The Department shall allow the deployment of OFWs to companies and contractors with international operations in countries not certified by the DFA as compliant; Provided, such companies and contractors are compliant with standards, conditions and requirements, as embodied in the employment contracts prescribed by the Department and in accordance with internationally-accepted standards.

**SECTION 120. Ban or Termination of Deployment.** Notwithstanding the provisions of the preceding sections, in pursuit of national interest or when public welfare so requires, the Department may, after consultation with the DFA, at any time, impose or terminate a ban on the deployment of OFWs.

**SECTION 121. Requirements for the Processing of Agency-Hires.** The processing of Agency-Hires shall comply with the requirements prescribed by the Department. A separate requirement shall be prescribed for domestic/householder service workers and workers in vulnerable occupations.

**SECTION 122. Minimum Age for Deployment and Compensation of Domestic Worker.** The minimum deployment age and minimum salary of a domestic worker shall be as prescribed by laws, rules, and regulations.

**SECTION 123. Issuance of Overseas Employment Certificate/OFW Clearance.** An OEC/OFW Clearance shall be issued only upon compliance with the documentary requirements for contract processing and payment of DMW processing fee, if applicable and OWWA Membership contribution.



**SECTION 124. Validity of Overseas Employment Certificate and Period to Deploy.** An OEC/OFW Clearance shall be valid for sixty (60) days for initial deployment and ninety (90) days for rehires, from date of issuance, within which period the licensed recruitment agency shall deploy its documented OFWs. The licensed recruitment agency shall report to the Department within fifteen (15) days from the expiry date of the OEC/OFW Clearance, in case of non-deployment and the reason/s therefor.

In case of issuance of multiple OEC/OFW Clearance, its validity shall depend on contract duration.

**SECTION 125. Registration of Returning OFW.** The registration and documentation of Returning OFWs shall be carried out by MWOs and the Department in accordance with prescribed guidelines.

**SECTION 126. Ban on Direct Hires, Exemption.** In accordance with law, no employer shall directly hire an OFW for overseas employment, unless otherwise exempted by law or any issuance of the Department.

The Department shall issue separate guidelines on the processing of workers exempted from the ban on direct hiring.

**SECTION 127. In-House Processing Facility.** The Department shall continue to improve and develop the system for in-house processing through electronic submission at the Land-based Accreditation Bureau for all agencies.

**SECTION 128. Accreditation and Processing of Workers in Sectors or Industries that Intersect with the Sea-based Sector.** The Department shall issue separate guidelines on the accreditation of principals and the processing of workers in sectors or industries with workplace characteristics that intersect with the sea-based sector, including, among others, occupations in the inter-modal sector.

## **PART IV PLACEMENT BY THE DEPARTMENT**

### **RULE I Recruitment and Placement Through the Department**

**SECTION 129. Hiring through the Department.** The Department shall recruit and place OFWs primarily on government-to-government arrangements and shall therefore service the hiring of foreign governments and their instrumentalities. The Department shall deploy only to countries where the Philippines has concluded bilateral labor agreements or arrangements.

As far as practicable, the Department shall recruit and place OFWs primarily on a government-to-government arrangement, or to labor markets not being serviced by the private sector.

In pursuance thereof, the Department shall, among others:

- a. Administer programs and projects that may support the employment development objectives of the Administration;
- b. Set parameters in servicing other foreign clients; and
- c. Undertake, in coordination with Regional Offices and concerned local government units, organized recruitment activities, in the provinces in aid of the employment dispersal efforts of the government.

**SECTION 130. Recruitment and Placement of OFWs.** All employers hiring through the Department shall undertake the recruitment and placement of OFWs through the facilities of the Department. The activities shall include, but not be limited to: interview and selection, provide list of Department of Health (DOH) accredited hospitals/medical clinics for medical examination, processing of contracts, assistance in securing passports and appropriate visas, pre-employment orientation, pre-flight briefing, travel arrangements, and welfare monitoring mechanism/procedures.

**SECTION 131. Fees and Costs Chargeable to the OFW and the Principal/Employer, respectively.** Unless otherwise provided by law, regulations, or bilateral agreement or arrangement, the fees and costs chargeable to principal/employer and to the OFW shall be those provided in a subsequent guideline issued by the Department.

**SECTION 132. Foreign Employer's Guarantee Fund.** For OFWs recruited through a government-to-government arrangement, the Department shall, through relevant guidelines, establish and administer a Foreign Employer's Guarantee Fund (FEGF) or its equivalent, which shall be answerable for the OFWs' monetary claims arising from breach of contractual obligations. The same must be included in bilateral agreements on government-to-government hiring.

**SECTION 133. Fees and Contributions.** All employers hiring through the Department shall pay to the Department a Mobilization Fee/ Government Hiring Fund in professionalizing the services under PEGPB, as provided in the prescribed guidelines, inclusive of the OWWA contribution, payable prior to the issuance of the OEC/OFW Clearance of the OFW. Such payment shall not be levied on the selected applicant by the employer.

Prior to the worker's departure, the employer shall be required to contribute to the FEGF to cover the worker's monetary claims arising from breach of contractual obligations of the employer, including attendant repatriation expenses.

Over and above the contribution to the FEGF, and in case of termination of overseas employment without just, valid, or authorized cause as defined by law or contract, the employer shall pay the worker his/her salaries for the unexpired portion of the employment contract.

**SECTION 134. Parameters for Government-to-Government Hiring.** The Department shall recruit and place workers for foreign employers consistent with parameters and criteria as may be set by the Department.

## **PART V EMPLOYMENT STANDARDS**



**RULE I**  
**Formulation of Employment Standards**

**SECTION 135. Employment Standards.** The Department shall secure the best possible terms and conditions of employment for OFWs. As such, it shall develop and continually review employment standards in accordance with policy thrusts and market developments. For this purpose, the minimum provisions of employment contracts for OFWs shall be prescribed by the Department through guidelines, consistent with its welfare promotion thrusts.

**SECTION 136. Freedom to Stipulate.** Parties to overseas employment contracts are allowed to stipulate other terms and conditions, including benefits, which should be over and above the minimum requirements. Said stipulations should not be contrary to law, public policy, and morals.

**SECTION 137. Disclosure of Terms and Conditions of Employment.** The licensed recruitment agency shall, prior to the signing of the employment contract, inform the OFWs of their rights and obligations, and disclose the full terms and conditions of employment. The licensed recruitment agency shall likewise ensure that the OFW is provided with a copy of the DMW-approved contract, to give the OFW ample opportunity to examine the same.

**PART VI**  
**RECRUITMENT VIOLATIONS AND DISCIPLINARY ACTION CASES**

**RULE I**  
**Jurisdiction**

**SECTION 138. Jurisdiction.** The Department shall exercise original and exclusive, and appellate jurisdiction to hear and decide all administrative cases involving or arising out of:

- a. Violations of recruitment rules and regulations, including refund of fees collected from OFWs; and
- b. Disciplinary action cases, excluding money claims.

In the exercise of its adjudicatory power, the Department shall formulate its own rules and procedures governing administrative proceedings.

**RULE II**  
**Recruitment Violation Cases, Classification of Offenses and Penalties**

**SECTION 139. Grounds for Imposition of Administrative Sanctions Against a Licensed Recruitment Agency.** Commission by a licensed recruitment agency of any of the offenses below shall be a ground for the imposition of the corresponding penalty.

**I. SERIOUS OFFENSES.** Serious offenses are punishable by cancellation of license plus accessory penalties, as may be imposed.

- a. Deploying a minor or a worker below the minimum age requirement;
- b. Engaging in acts of gross misrepresentation for the purpose of securing a license or renewal thereof, or giving false information or fictitious documents in relation to a matter that is material to the approval of the license application or renewal;
- c. Engaging in an act of reprocessing workers through a job order that pertains to: (1) non-existent work; (2) positions different from the actual overseas work or for positions different from the actual visa category, except when covered by an Affidavit of Allowable Visa Usage, as provided for in Part III, Rule II, Section 118 of the DMW Rules; or (3) a different principal/employer whether or not accredited with the Department;
- d. Engaging in an act of reprocessing workers through a job order that belongs to another agency;
- e. Engaging in the recruitment or placement of workers in jobs declared as harmful to life, public health, morality, human dignity, or the dignity of the Republic of the Philippines;
- f. Transferring or changing ownership or control of a single proprietorship licensed to engage in overseas employment;
- g. Becoming an officer or member of the Board of any corporation or partnership engaged directly or indirectly in the management of a travel agency by any of the Proponents;
- h. Deploying workers whose employment and travel documents were not processed by the Department;
- i. Allowing a non-Filipino citizen to head or manage, directly or indirectly, a licensed recruitment agency;
- j. Allowing a foreign recruitment agency, principal, or employer to own and/or participate in the management and/or operations of a licensed Philippine recruitment agency;
- k. Deploying a worker recruited by a non-Filipino citizen;
- l. Allowing illegal agents, non-employees, or representatives or employees not duly acknowledged by the Department, to conduct recruitment and placement activities on behalf of the agency;
- m. Charging or collecting placement fees for deployment to countries where the prevailing system, as determined by the Department, does not allow the charging or collection of placement and recruitment fees either by law, policy or practice;
- n. Passing on to the worker the fees and costs that are solely chargeable to the principal/employer;
- o. Refusing or unreasonably failing to act on any request for assistance leading to death, psychological impairment, sexual abuse or maltreatment of the worker;
- p. Substituting or altering, to the prejudice of the worker, a processed employment contract without the approval of the Department;
- q. Imposing a compulsory and exclusive arrangement whereby an OFW is required to undergo health examinations, training, seminar, instruction or schooling of any kind only from specifically designated institutions, entities, or persons or medical clinics, as the case may be, unless the cost is shouldered by the principal or licensed recruitment agency;
- r. Imposing a compulsory and exclusive arrangement whereby an OFW is required to avail of a loan from a specifically designated institution, entity, or



person.

- s. Committing all other acts constituting Trafficking in Persons as defined by R.A. Nos. 8042, 10022, and other relevant laws; and
- t. Directly or indirectly committing acts constituting graft and corrupt practices as defined by the Revised Penal Code, R.A. Nos. 3019 and 6713, and other relevant laws, involving any official, employee, or personnel of the Department.

**II. LESS SERIOUS OFFENSES.** Less serious offenses are punishable by suspension of license from Six (6) Months and One (1) Day to One (1) Year plus accessory or alternative penalties as may be imposed.

- a. Charging or accepting directly or indirectly any amount greater than that specified in the schedule of allowable placement fees, or making a worker pay or acknowledge any amount greater than that actually received by him/her as loan or advance;
- b. Charging, imposing or accepting directly or indirectly, any amount of money, goods or services, or any fee or bond for any purpose whatsoever before employment is obtained for an applicant worker;
- c. Collecting any fee from a worker without issuing BIR-registered official receipt clearly showing the amount paid and the purpose for which payment was made;
- d. Engaging in any other acts of misrepresentation in connection with recruitment and placement of workers, such as, but not limited to, furnishing or publishing any false notice, information or document in relation to recruitment or employment;
- e. Obstructing inspection conducted by the Department, or its duly authorized representatives;
- f. Withholding or denying release of travel or other pertinent documents from a worker despite demand;
- g. Engaging in recruitment activities in places other than that specified in the license or branch authority without a Special Recruitment Authority;
- h. Appointing or designating representatives or employees without notice to and acknowledgment by the Department;
- i. Allowing an accredited principal/employer or its representative to conduct or participate in recruitment activities outside the registered business address of the licensed recruitment agency without prior approval from the Department;
- j. Allowing persons who are disqualified to participate in the overseas employment program under existing laws, rules and regulations to participate in the ownership, management, and operation of the recruitment agency;
- k. Failure to reimburse expenses incurred by the worker in connection with his/her documentation and processing, where deployment does not take place without any fault on the part of the worker;
- l. Failure to comply with any of the required undertakings relative to the issuance or renewal of license;
- m. Refusing to condone or renegotiate a loan incurred by an OFW after the employment contract has been prematurely terminated through no fault of the worker;
- n. Facilitating, arranging or granting of a loan to an OFW with interest exceeding eight percent (8%) per annum which will be used for payment of legal and allowable placement fees, and making the OFW issue, either personally or



through a guarantor or accommodation party, postdated checks in relation to the said loan;

- o. Failure to report significant incidents within the prescribed period regarding the condition and status of the deployed worker;
- p. Failure to actually deploy a contracted worker within the validity of the OEC/OFW Clearance without valid reason;
- q. Collecting any amount as payment for documentation costs not prescribed by these Rules or other issuances of the Department, or an amount greater than the actual documentation costs, as covered by official receipts issued by entities which received the payments;
- r. *Falsifying or altering employment or travel documents of applicant worker;*
- s. Inducing a worker already pre-qualified/ contracted, whether deployed or not, to withdraw from or to abandon his/her employment in order to offer him/her another, unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- t. Failure to register, or violation of or non-compliance with the prescribed requirements pertaining to accommodation facilities; and
- u. Willful disobedience of lawful orders, notices, or other legal processes issued by the Department;

Habitual commission of less serious offenses shall constitute recidivism and shall be dealt with more severely.

**III. LIGHT OFFENSES.** Light offenses are punishable by Two (2) Months to Six (6) Months suspension of license, plus accessory or alternative penalties as may be imposed.

- a. Failure to submit reports as required under the rules and other issuances of the Department;
- b. Influencing any person or entity not to employ any worker who has not applied for employment through his/her agency, or influencing any person or entity not to employ any worker who has formed, joined or supported, or has contacted or is supported by any union or workers' organization;
- c. Failure to report to the Department the termination or resignation of representatives or employees within the prescribed period;
- d. Failure to monitor and submit quarterly report on the status and condition of its deployed workers; and
- e. Violations of other pertinent provisions of these Rules and other relevant laws, rules and regulations, guidelines and other issuances on recruitment and placement of workers for overseas employment and the protection of their welfare.

**SECTION 140. Grounds for Disciplinary Action Against Principals/Employers and Penalties.** Commission by a foreign principal/employer of any of the offenses below shall be a ground for the imposition of the corresponding penalty.

**I. SERIOUS OFFENSES.** Serious offenses are punishable by permanent disqualification and delisting from the roster of accredited principals/employers.

- a. Unauthorized/unjustified collection of fee or illegal exaction from an OFW



- through whatever means, including salary deduction;
- b. Passing on to the worker or deducting from the OFW's salary the payment of the cost of the premiums, as provided under the compulsory worker's insurance coverage;
- c. Gross negligence leading to serious injury, illness or disability, or death of the OFW;
- d. Grave misconduct against the OFW;
- e. Commission of any act by the principal/employer or any member of the family/household against the OFW, which is tantamount or amounts to a felony, crime, or offense punishable by the laws of the Philippines or by the host country;
- f. Unlawful transfer of an OFW to another principal/employer or to another jobsite/worksites;
- g. Compelling an OFW to perform work different from what is provided in the contract;
- h. Unreasonable/unjustifiable delay or refusal in securing an exit visa for an OFW or failure to timely repatriate the OFW;
- i. Non-payment or underpayment of wages and benefits;
- j. Substitution or alteration of the duly-processed contract to the prejudice of the OFW; and
- k. Gross violation of other laws, rules, and regulations pertaining to overseas employment.

**II. LESS SERIOUS OFFENSES.** Less serious offenses are punishable by Six (6) Months to one (1) year suspension from participation in the overseas employment program.

- a. Default on other contractual obligations to the OFW;
- b. Withholding the worker's travel and other pertinent documents;
- c. Non-acceptance of the results of valid health examinations conducted by a DOH-accredited or DOH-operated clinic;
- d. Failure to monitor and report the status, condition, or significant events relating to its hired worker;
- e. Negligence leading to injury or illness of the worker;
- f. Simple misconduct against the worker; and
- g. Deliberate failure to comply with any provisions of the recruitment agreement with its Philippine agent.

### **RULE III**

#### **Disciplinary Action Against OFW, Classification of Offense and Penalties**

**SECTION 141. Grounds for Disciplinary Action and their Penalties.** Commission by an OFW of any of the offenses enumerated below shall be a ground for disciplinary action for which the corresponding penalties shall be imposed.

**I. SERIOUS OFFENSES.** Serious offenses are punishable by One (1) Year-and One (1) Day to Two (2) Years suspension from participation in the overseas employment program.

- a. Submitting, furnishing or using falsified document or employing any other

forms of misrepresentation for the purpose of job application or employment;

- b. Unjustified refusal to continue his/her application after signing an employment contract, or to depart for the worksite after all employment and travel documents have been duly approved by the appropriate government agencies;
- c. Commission of a felony, or crime punishable by the laws of the Philippines or by the host country, committed during employment;
- d. Embezzlement of monies and/or properties of a fellow worker entrusted for delivery to kin or relatives in the Philippines;
- e. *Assaulting or commission of fraudulent acts against a fellow worker, the principal/employer or any member of his/her family, or any of the directors, officers, managerial or supervisory staff of the principal/employer;*
- f. Grave abuse of authority by an officer exercising supervision over other employees;
- g. Possession or use of prohibited drugs, contraband, alcohol or pornographic materials in violation of company policy or laws of the host country;
- h. Unjustified refusal to be repatriated in case of mandatory repatriation in accordance with the declaration of the Philippine government;
- i. Commission of gender based violence, or acts constituting violation of the Anti-Violence Against Women and Children Act or any other relevant laws, upon conviction or finding of probable cause of competent authority; and
- j. Unjustified termination of employment contract.

**II. LESS SERIOUS OFFENSES.** Less serious offenses are punishable by Six (6) Months to One (1) Year suspension from participation in the overseas employment program.

- a. Unjustified breach of employment contract;
- b. Embezzlement of funds and other properties of the employer;
- c. Violation of the religious and cultural practices of the host country;
- d. Violation of company policies and regulations;
- e. Insubordination or refusal to obey a lawful order of the employer or the duly authorized representative;
- f. Failure to refund the cost of his/her repatriation advanced by the principal or recruitment agency, where termination of employment was due to his/her own fault as determined by final judgment;
- g. Other forms of misrepresentation relative to his/her overseas employment; and
- h. Violation of the Code of Discipline for OFWs.

#### **RULE IV Complaints**

**SECTION 142. Filing and Venue of Complaints.** Any person, juridical or natural, who is aggrieved by the commission of an offense as enumerated in the immediately preceding rules may file a Complaint in the Regional Office having jurisdiction over the place where the worker was recruited or resides, at the option of the Complainant.



The Department may likewise, on its own initiative, initiate a Complaint based on verified reports of violation of the DMW Rules and Regulations and other issuances on overseas employment, accompanied by all available evidence relative thereto.

**SECTION 143. Preventive Suspension.** Pending investigation of the recruitment violation or disciplinary action complaint, the erring recruitment agency, foreign principal/employer, or OFW may be suspended for a period not exceeding ninety (90) days, on the following grounds:

- (1) For the recruitment agency
  - a. There exists reasonable ground to believe that the continued operation of the licensed recruitment agency will lead to further violation or exploitation of workers being recruited or deployed or will adversely affect friendly relations with any country or will prejudice national interest; and
  - b. There is a *prima facie* evidence of a case for violation of these Rules and Regulations pertaining to serious or less serious offense where the evidence of guilt is strong.
- (2) For a foreign principal/employer
  - a. When the evidence of guilt is strong; and
  - b. There is reasonable ground to believe that the continued deployment to the principal/employer will result in further violation or exploitation of OFWs or any of the grounds for the suspension of accreditation provided by Section 108 of the Rules is present.
- (3) For a migrant worker
  - a. When the evidence of guilt is strong; and
  - b. The charge involves a serious offense.

**SECTION 144. Resolution of the Case.** After notice and hearing, the Adjudicator shall submit his/her findings and recommendations to the Regional Director in the form of a draft Order. The Regional Director shall render a decision after receipt of the findings and recommendations. The penalty of cancellation of license shall be imposed upon a respondent agency found liable for committing a less serious or light offense against five (5) or more workers in a single case.

## **Rule V**

### **Appeal and Execution of Judgment**

**SECTION 145. Jurisdiction.** The Secretary shall have exclusive jurisdiction over appeals from the Orders of the Regional Directors. No Motion for Reconsideration shall be filed before the Regional Directors. However, a Motion for Reconsideration elevated to the Department may be given due course.

The Secretary shall likewise assume jurisdiction over appeals from the previous decisions of the Administrator of the former POEA, provided that the same are filed within the reglementary period as may be prescribed by the DMW Rules of Procedure in the Adjudication of Cases.

Appeals from the Orders of the POEA Administrator that are still pending at the Office of the Secretary of the Department of Labor and Employment shall be forwarded to the Department for disposition.

**SECTION 146. Execution of Judgments.** In executing an Order that has become final and executory, the Enforcement Officer shall be guided strictly by the provisions in the DMW Rules of Procedure in the Adjudication of Cases.

**SECTION 147. Effect of Petition for Certiorari on Execution.** A Petition for Certiorari with the Court of Appeals or the Supreme Court shall not stay the execution of the assailed decision of the Secretary unless a restraining order is issued by said courts.

## **RULE VI Clemency**

**SECTION 148. Clemency.** Subject to conditions as may be provided in the Department's Rules of Procedure in the Adjudication of Cases, a foreign principal/employer imposed with permanent disqualification, or a partner, officer or a director of a recruitment agency whose license has been cancelled, or a suspended Overseas Filipino Worker, may file a Motion for Clemency, Motion to Delist from Derogatory Record, or Motion for Commutation of Penalty, as the case may be, with the Adjudication Bureau.

## **PART VII ASSISTANCE TO OFW**

### **RULE I Assistance to OFW**

**SECTION 149. Responsibility to OFW.** The Department shall ensure that OFWs are amply protected, and that their interests, well-being, and welfare are promoted. Licensed recruitment agencies shall be responsible for the faithful compliance by their principals/employers of all obligations under the employment contract.

**SECTION 150. Request for Assistance.** The Department shall take cognizance of any request for assistance from the OFW or his/her family or by a third party, on matters relating to overseas employment, or may refer them to the proper government agencies or the licensed recruitment agencies concerned, for appropriate action.

For this purpose, a third party shall refer to any individual, group, and other stakeholders who were able to obtain verifiable reports or information of the status and condition of the worker onsite.

**SECTION 151. Monitoring of Deployed Workers and Submission of Reports.** Commencing from the deployment of its hired worker until the expiration of the term of their contract, the licensed recruitment agency shall monitor the status or condition of its deployed OFW and submit a corresponding quarterly report to the Department. It shall likewise immediately act on complaints or problems brought to its attention and submit corresponding reports to the Department.



In case of significant incidents such as but not limited to death, injury, detention, physical/sexual abuse, maltreatment, accidents, missing, runaway, emergency medical assistance, of OFW, the licensed recruitment agency shall submit a report regarding the same to the Department within five (5) days from the occurrence of the incident.

The foreign recruitment agency or foreign placement agency shall likewise monitor its deployed OFWs' status or condition and regularly submit a quarterly monitoring report to the concerned Migrant Workers Office.

**SECTION 152. Monitoring System.** To standardize the monitoring reports and make the submission easier and faster, the OFW Welfare Monitoring System (OWMS) shall be the tool that the recruitment agencies, through their WEDOs, will use in submitting the quarterly monitoring reports and significant or critical incident reports on the status and condition of the deployed OFW.

**SECTION 153. Creation and Management of Welfare Records.** A newly-hired and deployed OFW shall have a welfare record in the OWMS that the deploying recruitment agency should create during the first month of his/her deployment.

After thirty (30) days from the effectivity of these Rules, the licensed recruitment agencies that deployed at least one hundred (100) domestic workers shall employ at least one (1) full-time and trained welfare officer/counselor in its office to monitor and resolve domestic worker problems/complaints at the job site.

**SECTION 154. Capability Enhancement Training.** The Department, in coordination with other national government agencies, shall conduct capability enhancement training for welfare desk officers of recruitment agencies to equip them with the necessary tools to help address the complaints of the workers on site and/or aired through their families.

The employees of the PRA shall undergo Capability Enhancement Training.

**SECTION 155. Reporting of Erring Employer/Principal.** The licensed recruitment agency shall report to the Department any information that comes to the knowledge of the agency, with respect to any violation of these Rules by their principal/employer. The matter shall be referred to the Foreign Employment and Welfare Services, Adjudication Bureau, or Licensing Regulation Bureau for appropriate action.

**SECTION 156. Administrative Sanctions.** Failure by licensed recruitment agencies and/or principals/employers to submit reports or to act on requests for assistance and/or complaints of OFW and/or their families shall warrant imposition by the Department of documentary processing suspension or such sanctions as it may deem appropriate.

**SECTION 157. Welfare Programs and Reintegration.** The Department shall promote and establish projects and activities that will facilitate the psychosocial and economic reintegration of OFWs who have decided to return home permanently.



It shall support and coordinate with other institutions on projects and activities that will enhance the welfare and promote the interest of OFWs and their families.

## **RULE II Repatriation**

**SECTION 158. Primary Responsibility to Repatriate OFW.** Notwithstanding the provisions on compulsory insurance coverage as required by law, the repatriation of an OFW or his/her remains, and the transport of his/her personal effects shall be the primary responsibility of the principal/employer and licensed recruitment agency that recruited and/or deployed him. This entails the obligation to cover repatriation and attendant costs, including airfare and immigration fines/penalties. This obligation shall be without prior determination of the cause of the need to repatriate the OFW. After the OFW has returned to the country, the principal/employer or licensed recruitment agency may, however, recover the cost of repatriation from the OFW if the termination of the employment was due solely to the OFW's fault.

**SECTION 159. Department's 24/7 Emergency Response and Action Center Unit.** The Department shall maintain a centralized system in the Department that facilitates, monitors, and documents the repatriation of OFWs in distress, regardless of status in the host country, in coordination with relevant government agencies, the private sector, and other stakeholders.

**SECTION 160. Repatriation Procedures.** Repatriation of OFW, including the imposition of suspension of documentary processing of the erring licensed recruitment agency and/or suspension of processing of all the job orders of the erring employer and its foreign placement agency, shall follow the procedure as may be prescribed in the guidelines to be issued by the Department.

**SECTION 161. Lifting of Order of Documentary or Job Order Processing Suspension.** Upon request, the Order of Documentary/ Job Order Suspension shall be lifted only when there is proof of compliance by the recruitment agency/foreign placement agency/employer to the directive issued by concerned Bureau Director/Regional Director and upon the latter's recommendation to the Undersecretary for Foreign Employment and Welfare Services.

**SECTION 162. Repatriation Costs in Case of Failure to Repatriate.** When those primarily responsible for the repatriation fail to fulfill their obligations, a recommendation to advance the repatriation costs using the AKSYON Fund may be endorsed to the Undersecretary for Foreign Employment and Welfare Services, subject to the reimbursement of the costs by the LRA or employer and the imposition of appropriate administrative sanctions against the LRA or employer before the Department

**SECTION 163. Prohibition Against Performance Bonds and Deposits.** The licensed recruitment agency shall not require any bond or cash deposit from the OFW to guarantee performance under the contract or for the OFW's repatriation.

**SECTION 164. Emergency Repatriation.** The OWWA, in coordination with DFA, and in appropriate situations, with international agencies, shall undertake the repatriation



of OFW in cases of war, epidemic, disasters or calamities, natural or man-made, and other similar events, without prejudice to reimbursement by the responsible foreign placement agency/employer or licensed recruitment agency within sixty (60) days from notice. In such cases, the Undersecretary shall simultaneously identify and give notice to the licensed recruitment agencies concerned, copy furnished the corresponding insurance companies.

**SECTION 165. Mandatory Repatriation of Underage Overseas Filipino Worker.**

Upon receipt of verifiable information on the presence of an OFW whose actual age falls below the minimum age requirement for overseas deployment, the responsible officers in the foreign service shall, without delay, repatriate the said OFW and advise the DFA through the fastest means of communication available of such information.

**RULE III**  
**War Risk Areas and Insurance**

**SECTION 166. Declaration of War Risk Areas.** In order to protect the OFW from the hazards of war or deteriorating political and security situations, the Department shall, pursuant to prior declaration by the DFA, declare specific areas as war risk areas.

**SECTION 167. Mandatory War Risk Insurance for OFW.** In addition to the compulsory insurance coverage as required in these Rules, all OFW bound for areas declared as war risk areas shall be provided with war risk insurance coverage in such amount as may be determined by the Department. This war risk insurance shall be provided by the principal/employer at no cost to the OFW.

**RULE IV**  
**Comprehensive and Integrated Public Education Program**

**SECTION 168. Public Education Program.** The Department shall undertake a comprehensive and integrated public education program on overseas employment involving workers, licensed recruitment agencies, principals/employers and government personnel, for the purpose of promoting safe and legal migration and preventing illegal recruitment and trafficking in persons.

**SECTION 169. Workers Education Program.** The Department shall disseminate information on labor and employment conditions and migration realities to adequately prepare individuals, and empower them to make informed and intelligent decisions about overseas employment.

Toward this end, the Department shall resort to modes of information and dissemination campaigns, such as the conduct of PEOS in the form of community/mass-based PEOS or PEOS online. Completion of the PEOS online shall be mandatory for all applicants for overseas employment. The PEOS shall cover all stages of employment and may be country and skill-specific.

The Department shall likewise conduct a nationwide, multi-media campaign to continuously disseminate anti-illegal recruitment laws and regulations, updated lists of licensed agencies and entities and other essential information through information and education materials such as brochures, pamphlets, posters, visual aids and other

similar materials.

**SECTION 170. Partnerships with Stakeholders.** The Department shall maintain and strengthen its partnership with local government units, other government agencies, private sector and civil society organizations advocating the rights and welfare of OFWs, for the purpose of dissemination of information on all aspects of overseas employment, including the conduct of information and education campaigns on anti-illegal recruitment and anti-trafficking in persons.

**SECTION 171. Agency Education Program.** The Department shall provide *Pre-Licensing Orientation Seminars and a Continuing Agency Education Program* for the officers and personnel of licensed recruitment agencies.

**SECTION 172. Orientation of Principal/Employers and OFW On-Site.** The Department in coordination with the MWO or concerned entities shall provide effective orientation to principals/employers on the requirements, standards, laws and regulations in the recruitment and employment of Filipino workers. The MWO, in coordination with the principals/employers, shall conduct a PAOS for OFWs. The orientation of principals/employers and the PAOS may be conducted through an online system established by the MWO.

The licensed recruitment agencies shall be responsible for orienting the employer and the worker on their rights, duties and responsibilities stipulated in the employment contract.

## **RULE V**

### **Registration of Applicant-Workers**

**SECTION 173. Applicants-Workers' Registry.** The Department shall adopt a system of registration of applicants-workers and maintain a registry of qualified applicants in accordance with the requirements of their occupations.

**SECTION 174. Sourcing of Workers from the Registry.** Aside from the in-house placement facility of the Department, licensed recruitment agencies may source their manpower requirements from the applicants-workers' registry.

**SECTION 175. Endorsement of Qualified Applicants.** The Department may endorse qualified applicants from the registry to licensed recruitment agencies for possible placement.

**SECTION 176. Agency Workers Pool.** A licensed recruitment agency may maintain its own manpower pool for its prospective or accredited principal/employer, provided, *no fee shall be charged to the applicant, nor shall services be required in consideration of registration in the agency's manpower pool.*

## **PART VIII**

### **RULE VI**

#### **Labor Market Research, Standards Development, and**



## **Advanced and Strategic Policies on Migration and Development**

**SECTION 177. Labor Market Research Studies.** The Department, in coordination with relevant entities, shall establish a labor market information system and conduct periodic and responsive research studies on the following:

1. labor market demand and supply;
2. prevailing labor market trends and conditions;
3. employment standards;
4. *prevailing salary rates in the host countries*;
5. immigration and labor policies of host countries; and
6. country and skill-specific employment contracts.

**SECTION 178. Advanced and Strategic Policies on Migration and Development.** The Department shall ensure that its policies related to the recruitment and employment of Landbased OFWs, as reflected in these rules and regulations and the standards and requirements it imposes, are:

- a. Responsive to current conditions and challenges that have an impact on, or are, in turn, impacted by overseas labor migration and/or the development goals of the Philippine government;
- b. Capable of anticipating and leveraging emerging trends towards the end of ensuring the personal development of overseas workers and their families on the one hand, and the sustainability of our national development on the other;
- c. As far as practicable, supported and guided by evidence-based and data-driven advanced and strategic studies on migration and development; and
- d. Consultatively formulated, including through the engagement of the participation of key stakeholders and experts in various fields of study, including those from the academe and both government and non-governmental organizations.

For this purpose, the Undersecretary for Policy and International Cooperation, through the Institute for Advanced and Strategic Studies on Migration and Development, shall establish the Department's policy-making framework.

**SECTION 179. Training Programs and Standards.** The DMW shall coordinate with private entities, government agencies, and employers concerned in the formulation of training programs and standards.

**SECTION 180. Bilateral/Regional/Multilateral Agreements.** The Department, in coordination with relevant entities, shall pursue the conclusion of bilateral/regional/multilateral agreements on labor cooperation with host countries.

## **RULE VII Code of Conduct for Migrant Workers**

**SECTION 181. Obligations of OFWs.** It is the duty of all OFWs to conduct themselves in the most professional, responsible and ethical manner in the performance of their duties and fulfill their obligations towards their family, fellow workers, country, the licensed recruitment agency, principal/employer, and lastly, to the host country.

## **PART IX INCENTIVES AND AWARDS**

### **RULE I Agency Awards**

**SECTION 182. Three-Tiered Award System for Licensed Recruitment Agencies.** The Department shall confer awards to licensed recruitment agencies, in recognition of their consistent excellent performance in providing decent and remunerative employment to OFWs, maintaining professionalism and upholding ethical recruitment practices.

The licensed recruitment agencies qualified for the awards shall be evaluated based on criteria as may be set by the Department.

The three-tiered award system consists of the following categories:

- a. Top Performer Award, the first level award which is given to a licensed recruitment agency that has been actively operating for at least four (4) years and has passed the criteria and threshold for the said award, which shall be conferred once every two (2) years;
- b. Award of Excellence, the second level of award given to a licensed recruitment agency which has received the Top Performer Award for three (3) times, which shall be conferred once every two (2) years;
- c. Presidential Award, the highest level of award given to a licensed recruitment agency which has received the Award of Excellence for three (3) times, which shall be conferred once every six (6) years.

**SECTION 183. Incentives and System of Recognition.** The recipients of Outstanding Agency Awards shall be entitled to a package of incentives as may be granted by the Department through a guideline set for this purpose.

**SECTION 184. Other Incentives and System of Recognition.** The Department shall, other than those mentioned in the preceding paragraph, continue to recognize exemplary performance of licensed recruitment agencies and develop an incentive scheme to reward those that practice ethical recruitment standards, including the development of a "white list" of agencies and other similar schemes. It shall also continually review the awards system and its incentives for the purpose of enhancing the system, taking into consideration developments in migration policies and practices and trends in the global labor market, and affording the participation of various stakeholders in the process.



## **RULE II**

### **Employers' Awards**

**SECTION 185. Two-Level Award System for Principals/Employers.** The Department shall confer every four (4) years a two-level award to deserving principals/employers who have been major providers of decent and quality employment to OFW and who have significantly contributed to their development as well as the protection and promotion of their well-being, as follows:

- a. **SECRETARY AWARD OF COMMENDATION** – The award shall be conferred once every two (2) years by the Secretary to principals/employers who, based on safe, fair and ethical recruitment, have continuously hired OFW during the past four (4) years.
- b. **PRESIDENTIAL AWARD OF DISTINCTION** – The award shall be conferred once every six (6) years by the President of the Philippines to principals/employers who, based on safe, fair and ethical recruitment, have continuously hired OFW during the past four (4) years and has been a Ministerial Awardee for three (3) consecutive times.

The principals/employers qualified for the awards shall be evaluated based on criteria as may be set by the Department.

**SECTION 186. Incentives for Employer Awardees.** The recipients of employer awards shall be entitled to a package of incentives as may be granted by the Department through guidelines set for this purpose.

## **PART X**

### **General and Miscellaneous Provisions**

**SECTION 187. Authority to Administer Oaths.** The Secretary, or any person authorized under existing laws, shall have the authority to administer oaths and require the attendance of witnesses or the production of any book, paper, correspondence, memoranda and other documents relevant or material to the case or inquiry.

The Secretary may authorize other DMW personnel to administer oaths.

**SECTION 188. Construction.** These Rules shall be liberally construed to carry out the objectives of the Constitution, the Department of Migrant Workers Act, and the laws pertaining to overseas employment, and to assist the parties in obtaining just, expeditious and inexpensive settlement of disputes.

All doubts in the implementation or interpretation of these Rules shall be resolved in favor of labor.

**SECTION 189. Effectivity of Existing Policies, Rules and Regulations.** All existing policies, rules and regulations of the POEA, DOLE and of the merged/subsumed agencies shall continue to remain in full force and effect unless and until expressly repealed or modified by subsequent issuances of the Department Secretary after the

Department has been constituted in accordance with the last paragraph of Section 23 of RA 11641.

**SECTION 190. Application of provisions prior to the DMW Rules.** All actions, claims, or causes of action accruing prior to the effectivity of the DMW Rules shall be determined in accordance with the laws in force at the time of their accrual. However, the imposition of penalty, if any, shall be governed by these Rules, whenever beneficial to the respondent.

**SECTION 191. Amendments.** Governing Board Resolutions or any other issuance amending any part of these Rules shall be deemed incorporated herein.

**SECTION 192. Separability Clause.** The provisions of these Rules and Regulations are declared to be separable, and if any provision or the application thereof is held invalid or unconstitutional, the validity of the other provisions shall not be affected.

**SECTION 193. Repealing Clause.** All policies, issuances, rules and regulations inconsistent with these Rules are hereby repealed or modified accordingly.

**SECTION 194. Effectivity.** These Rules shall take effect fifteen (15) days from publication in a newspaper of general circulation and from filing with the Office of the National Administrative Registry of the University of the Philippines Law Center.

Signed this 9<sup>th</sup> day of June 2023, at City of Mandaluyong, Philippines.

  
**MARIA SUSANA V. OPLE**  
*Secretary*