



Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Labor Communications Office
Intramuros, Manila

DEPARTMENT OF LABOR AND EMPLOYMENT
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MEMORANDUM

FOR: All Undersecretaries and Assistant Secretaries
All Heads of Services, Bureaus, Regional Offices and Attached Agencies

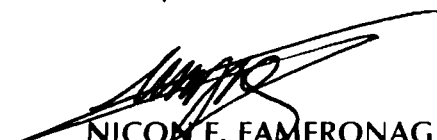
FROM: Labor Communications Office

SUBJECT: Omnibus Rules and Regulations Implementing the Migrant Workers and Overseas Filipinos Act of 1995

DATE: 04 August 2010

We are pleased to provide you a copy of the Omnibus Rules and Regulations Implementing the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022, known as "An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipinos Act of 1995, as Amended, Further Improving the Standard of Protection and Promotion of the Welfare of Migrant Workers, their Families and Overseas Filipinos in Distress, and for other Purposes".

Your Labor Communications Office, in cooperation with the Philippine Overseas Employment Administration, has caused the publication of these Omnibus Rules in the July 29, 2010 issues of the Manila Times and the Philippine Daily Inquirer, respectively, as required.



NICOM F. FAMERONAG
Director

Republic of the Philippines

**OMNIBUS RULES AND REGULATIONS
IMPLEMENTING
THE MIGRANT WORKERS AND
OVERSEAS FILIPINOS ACT OF 1995,
AS AMENDED BY REPUBLIC ACT NO. 10022**

Pursuant to the authority vested by law on the Secretary of Foreign Affairs, Secretary of Labor and Employment, Secretary of Health, the Chairman of the National Labor Relations Commission, and the Insurance Commissioner, and in the light of Republic Act No. 10022, An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended, Further Improving the Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and For Other Purposes, the following Implementing Rules and Regulations are hereby promulgated:

**RULE I
GENERAL PROVISIONS**

Section 1. Declaration of Policies.

(a) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, uphold the dignity of its citizens whether in the country or overseas, in general, and Filipino migrant workers, in particular, continuously monitor international conventions, adopt/be signatory to and ratify those that guarantee protection to our migrant workers, and endeavor to enter into bilateral agreements with countries receiving overseas Filipino workers.

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

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

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

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

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

(g) The State recognizes that the most effective tool for empowerment is the possession of skills by migrant workers. The government shall expand access of migrant workers to free skills development and enhancement programs through guidelines on scholarships, training subsidies, grants of the concerned agencies. Pursuant to this and as soon as practicable, the government shall deploy and/or allow the deployment only of skilled Filipino workers.

(h) The State recognizes that non-governmental organizations, trade unions, workers associations, stakeholders and other similar entities duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect. The significant contribution of recruitment and manning agencies shall form part of this partnership.

RULE II DEFINITION OF TERMS

Section 1. Definitions.

(a) Act - refers to the "Migrant Workers and Overseas Filipinos Act of 1995," as amended by Republic Act No. 9422 and Republic Act No. 10022.

(b) Authority, - refers to a document issued by the Secretary of Labor and Employment authorizing the officers, personnel, agents or representatives of a licensed recruitment/manning agency to conduct recruitment and placement activities in a place stated in the license or in a specified place.

(c) BI - Bureau of Immigration

(d) Bona fide Non-Government Organizations (NGOs) – refer to non-government, civil society or faith-based organizations duly recognized by the Philippine Embassy as active partners of the Philippine Government in the protection of Filipino migrant workers and the promotion of their welfare.

(e) CICT - Commission on Information and Communications Technology

(f) Contracted workers – refer to Filipino workers with employment contracts already processed by the POEA for overseas deployment.

(g) DFA - Department of Foreign Affairs

(h) DILG - Department of the Interior and Local Government

(i) Direct Hires - refer to workers directly hired by employers for overseas employment as authorized by the Secretary of Labor and Employment and processed by the POEA, including:

1. Those hired by international organizations;
2. Those hired by members of the diplomatic corps; and
3. Name hires or workers who are able to secure overseas employment opportunities with employers without the assistance or participation of any agency.

(j) DOH - Department of Health

(k) DOJ - Department of Justice

(l) DOLE - Department of Labor and Employment

(m) DOST - Department of Science and Technology

(n) DOT - Department of Tourism

(o) Employment Contract – refers to the following:

1. 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 Administration; and
2. For seafarers - the written standard POEA-approved employment contract stipulating a specific period of employment and formulated through tripartite consultation, individually adopted and agreed upon by the principal/employer and the seafarer.

(p) Filipino Service Contractor – refers to any person, partnership or corporation duly licensed as a private recruitment agency by the Secretary of Labor and Employment to recruit workers for its accredited projects or contracts overseas.

(q) Gender Sensitivity – refers to cognizance of the inequalities and inequities prevalent in society between women and men and a commitment to address issues with equal concern for the respective interest of the sexes.

(r) Head or manage - refers to any of the following acts:

1. Control and supervise the operations of the recruitment/manning agency or branch thereof of which they are employed; or
2. Exercise the authority to hire or fire employees and lay down and execute management policies of the recruitment/manning agency or branch thereof.

(s) Joint and several liability – refers to the liability of the principal/employer and the recruitment/manning agency, for any and all claims arising out of the implementation of the employment contract involving Filipino workers for overseas deployment. If the recruitment-manning agency is a juridical being, the corporate officers and directors and partners, as the case may be, shall themselves be jointly and severally liable with the corporation or partnership for the aforesaid claims and damages.

(t) IC – Insurance Commission

(u) Irregular/Undocumented Filipino migrant workers – refer to the following:

- (1) Those who acquired their passports through fraud or misrepresentation;
- (2) Those who possess expired visas or permits to stay;
- (3) Those who have no travel document whatsoever;
- (4) Those who have valid but inappropriate visas; or
- (5) Those whose employment contracts were not processed by the POEA or subsequently verified and registered on-site by the POLO, if required by law or regulation.

(v) Labor Code - Presidential Decree No. 442, as amended

(w) License – refers to the document issued by the Secretary of Labor and Employment authorizing a person, partnership or corporation to operate a private recruitment/manning agency.

(x) LGU – Local Government Unit

(y) Manning Agency – refers to any person, partnership or corporation duly licensed by the Secretary of Labor and Employment to engage in the recruitment and placement of seafarers for ships plying international waters and for related maritime activities.

(z) NBI- National Bureau of Investigation

(aa) NCC - National Computer Center

(bb) NLRB - National Labor Relations Commission

(cc) Non-licensee – refers to any person, partnership or corporation with no valid license to engage in recruitment and placement of overseas Filipino workers or whose license is revoked, cancelled, terminated, expired or otherwise delisted from the roll of licensed recruitment manning agencies registered with the POEA.

(dd) NRCO – National Reintegration Center for Overseas Filipino Workers

(ee) NSCB – National Statistical and Coordination Board

(ff) NSO – National Statistics Office

(gg) NTC – National Telecommunications Commission

(hh) Overseas Filipinos – refer to migrant workers, other Filipino nationals and their dependents abroad.

(ii) Overseas Filipino in distress – refers to an Overseas Filipino who has a medical, psycho-social or legal assistance problem requiring treatment, hospitalization, counseling, legal representation as specified in Rule IX of these Rules or any other kind of intervention with the authorities in the country where he or she is found.

(jj) Overseas Filipino Worker or Migrant Worker – refers to a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a state of which he or she is not a citizen or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes, or on an installation located offshore or on the high seas. A “person to be engaged in a remunerated activity” refers to an applicant worker who has been promised or assured employment overseas.

(kk) OWWA - Overseas Workers Welfare Administration

(ll) Placement Fees- shall refer to any and all amounts charged by a private recruitment agency from a worker for its recruitment and placement services as prescribed by the Secretary of Labor and Employment.

(mm) POEA - Philippine Overseas Employment Administration, shall be used interchangeably with the term "Administration".

(nn) POLO - Philippine Overseas Labor Office

(oo) Principal - refers to an employer or foreign placement agency hiring or engaging Filipino workers for overseas employment through a licensed private recruitment/manning agency.

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

(pp) Rehires - refer to land-based workers who renewed their employment contracts with the same principal.

(rr) Regular Documented Filipino Migrant Workers - Refer to the following:

(1) Those who possess valid passports and appropriate visas or permits to stay and work in the receiving country; and

(2) Those whose contracts of employment have been processed by the POEA, or subsequently verified and registered on-site by the POLO, if required by law or regulation.

(ss) Seafarer - refers to any person who is employed or engaged in overseas employment in any capacity on board a ship other than a government ship used for military or non-commercial purposes. The definition shall include fishermen, cruise ship personnel and those serving on mobile offshore and drilling units in the high seas.

(tt) Skilled Filipino Workers - refer to those who have obtained an academic degree, qualification, or experience, or those who are in possession of an appropriate level of competence, training and certification, for the job they are applying, as may be determined by the appropriate government agency.

(uu) TESDA - Technical Education and Skills Development Authority

(vv) Underage Migrant Workers - refer to those who are below 18 years or below the minimum age requirement for overseas employment as determined by the Secretary of Labor and Employment.

RULE III DEPLOYMENT OF MIGRANT WORKERS

Section 1. Guarantees of Migrant Workers Rights.

The State shall allow the deployment of OFWs only in countries where the rights of Filipino migrant workers are protected. The government recognizes any of the following as a guarantee on the part of the receiving country for the protection of the rights of OFWs:

- (a) It has existing labor and social laws protecting the rights of workers, including migrant workers; or
- (b) It is a signatory to and/or a ratifier of multilateral conventions, declarations or resolutions relating to the protection of workers, including migrant workers; or
- (c) It has concluded a bilateral agreement or arrangement with the government on the protection of the rights of overseas Filipino Workers;

Provided, That the receiving country is taking positive and concrete measures to protect the rights of migrant workers in furtherance of any of the guarantees under subparagraphs (a), (b), and (c) hereof.

“Positive and concrete measures” shall include legislative or executive initiatives, diplomatic negotiations, judicial decisions, programs, projects, activities and such other acts by the receiving country aimed at protecting the rights of migrant workers.

For purposes of the preceding paragraphs, the DFA shall issue a certification that a receiving country complies with any of the guarantees under subparagraphs (a), (b), and (c) hereof, and that the receiving country is taking such positive and concrete measures to protect workers, including migrant workers. The DFA shall issue such certification to the POEA, specifying therein the pertinent provisions of the receiving country’s labor/social law, or the convention declaration/resolution, or the bilateral agreement/arrangement which protect the rights of migrant workers. Such a certification shall be subject to review by the DFA as often as may be deemed necessary.

The POEA Governing Board shall, in a Resolution, allow only the deployment of OFWs to receiving countries which have been certified by the DFA as compliant with the above stated guarantees.

The POEA shall register OFWs only for receiving countries allowed by the POEA Governing Board, subject to existing standards on accreditation of foreign employers/principals and qualification requirements for workers.

Sec. 2. Liability of the Members of the POEA Governing Board, Government Officials and Employees.

The members of the POEA Governing Board who actually voted in favor of a Resolution allowing the deployment of migrant workers without the DFA certification referred to in the preceding section shall suffer the penalties of removal or dismissal from service with disqualification to hold any appointive public office for five (5) years. Further, the government official or employee responsible for the issuance of the permit or for allowing the deployment of migrant workers in violation of this section and in direct contravention of a Resolution by the POEA Governing Board prohibiting deployment shall be meted the same penalties in this section.

Sec. 3. Deployment of OFWs to Ocean-Going Ships.

The State shall also allow the deployment of OFWs to ships navigating the foreign seas or to installations located offshore or on high seas whose owners/employers are compliant with international laws and standards that protect the rights of migrant workers.

Sec. 4. Deployment to Companies and Contractors with International Operations.

The State shall likewise allow the deployment of OFWs to companies and contractors with international operations: Provided, That they are compliant with standards, conditions and requirements, as embodied in the employment contracts prescribed by the POEA and in accordance with internationally-accepted standards.

Sec. 5. Deployment of Skilled Workers.

As soon as adequate mechanisms for determination of skills are in place and consistent with national interest, the Secretary of Labor and Employment shall allow the deployment only of skilled Filipino workers.

Sec. 6. Termination or Ban on Deployment.

Notwithstanding the provisions of Sections 1 and 5 of this Rule, in pursuit of the national interest or when public welfare so requires, the POEA Governing Board, after consultation with the DFA, may, at any time, terminate or impose a ban on the deployment of migrant workers.

The POEA Governing Board may, after consultation with the DFA, grant exceptions to the ban or lift the ban.

Sec. 7. Travel Advisory.

The DFA shall issue travel advisories as the need arises. A "travel advisory" is a notice to the traveling public normally for a security reason and based on the prevailing peace and order situation in a specific destination.

Sec. 8. Labor Situationer.

The POEA, in consultation with the DFA, shall disseminate information on labor and employment conditions, migration realities and other facts, as well as adherence of particular countries to international standards on human and workers rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment. The POEA shall publish, in a timely manner, such advisory in a newspaper of general circulation.

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

RULE IV ILLEGAL RECRUITMENT

Section 1. Definition.

For purposes of the Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(1) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

- (a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay or acknowledge any amount greater than that actually received by him as a loan or advance:
- (b) To furnish or publish any false notice or information or document in relation to recruitment or employment:
- (c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code, or for the purpose of documenting hired workers with the POEA, which include the act of reprocessing workers through a job order that pertains to non-existent work, work different from the actual overseas work, or work with a different employer whether registered or not with the POEA:
- (d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment:

(e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency or who has formed, joined or supported, or has contacted or is supported by any union or workers' organization:

(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines:

(g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative:

(h) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment:

(i) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment:

(j) For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency:

(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations, or for any other reasons, other than those authorized under the Labor Code and its implementing Rules and Regulations:

(l) Failure to actually deploy a contracted worker without valid reason as determined by the Department of Labor and Employment;

(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault; and

(n) To allow a non-Filipino citizen to head or manage a licensed recruitment/manning agency.

Sec 2. Crime Involving Economic Sabotage.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Sec. 3. Other Prohibited Acts.

In addition to the acts enumerated above, it shall also be unlawful for any person or entity to commit the following prohibited acts:

- a. Grant a loan to an OFW with interest exceeding eight (8%) percent per annum, which will be used for payment of legal and allowable placement fees and make the migrant worker issue, either personally or through a guarantor or accommodation party, postdated checks in relation to the said loan:
- b. Impose a compulsory and exclusive arrangement whereby an OFW is required to avail of a loan only from specifically designated institutions, entities, or persons:
- c. Refuse to condone or renegotiate a loan incurred by an OFW after the latter's employment contract has been prematurely terminated through no fault of his/her own:
- d. Impose a compulsory and exclusive arrangement whereby an OFW is required to undergo health examinations only from specifically designated medical clinics, institutions, entities or persons, except in the case of a seafarer whose medical examination cost is shouldered by the principal/shipowner:
- e. Impose a compulsory and exclusive arrangement whereby an OFW is required to undergo training, seminar, instruction or schooling of any kind only from specifically designated institutions, entities or persons, except for recommendatory training mandated by principals/shipowners where the latter shoulder the cost of such trainings:
- f. For a suspended recruitment/manning agency to engage in any kind of recruitment activity including the processing of pending workers' applications:
- g. For a recruitment/manning agency or a foreign principal/employer to pass-on to the OFW or deduct from his/her salary the payment of the cost of insurance fees, premium or other insurance related charges, as provided under the compulsory worker's insurance coverage.

Sec. 4. Persons Responsible.

The persons criminally liable for the above offenses 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.

Sec. 5. Penalties.

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than twelve (12) years and one (1) day but not more than twenty (20) years and a fine of not less than One Million Pesos (Php1,000,000.00) nor more than Two Million Pesos (Php2,000,000.00).

(b) The penalty of life imprisonment and a fine of not less than Two Million Pesos (Php2,000,000.00) nor more than Five Million Pesos (Php5,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined therein.

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

(c) Any person found guilty of any of the prohibited acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Five Hundred Thousand Pesos (Php500,000.00) nor more than One Million Pesos (Php1,000,000.00).

If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings.

In every case, conviction shall cause and carry the automatic revocation of the license or registration of the recruitment/manning agency, lending institutions, training school or medical clinic.

Sec. 6. Venue.

A criminal action arising from illegal recruitment as defined under this Rule shall be filed with the Regional Trial Court of the province or city where the offense was committed or where the offended party actually resides at the time of the commission of the offense: *Provided,* That the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts.

Sec. 7. Prescription.

Illegal recruitment cases under this Rule shall prescribe in five (5) years: *Provided,* however, That illegal recruitment cases involving economic sabotage shall prescribe in twenty (20) years.

Sec. 8. Independent Action.

The filing of an offense punishable under this section shall be without prejudice to the filing of cases punishable under other existing laws, rules or regulations.

RULE V PROHIBITION OF GOVERNMENT PERSONNEL

Section 1. Disqualification.

The following personnel shall be prohibited from engaging directly or indirectly in the business of recruitment of migrant workers:

(a) Any official or employee of the DOLE, POEA, OWWA, DFA, DOJ, DOH, BI, IC, NLRC, TESDA, CFO, NBI, Philippine National Police (PNP), Manila International Airport Authority (MIAA), Civil Aviation Authority of the Philippines (CAAP), and other government agencies involved in the implementation of the Act, regardless of the status of his/her employment; and

(b) Any of his/her relatives within the fourth civil degree of consanguinity or affinity.

Any government official or employee found to be violating this section shall be charged administratively, according to Civil Service Rules and Regulations without prejudice to criminal prosecution.

The government agency concerned shall monitor and initiate, upon its initiative or upon the petition of any private individual, action against erring officials and employees, and/or their relatives.

RULE VI ANTI-ILLEGAL RECRUITMENT PROGRAMS

Sec. 1. POEA Anti-Illegal Recruitment Programs.

The POEA adopts policies and procedures, prepares and implements intensified programs and strategies towards the eradication of illegal recruitment activities such as, but not limited to the following:

(a) Providing legal assistance to victims of illegal recruitment and related cases which are administrative or criminal in nature, such as but not limited to documentation and counseling;

(b) Prosecution of illegal recruiters, during preliminary investigation and during trial in collaboration with the DOJ prosecutors;

(c) Special operations such as surveillance and closure of establishment or entities suspected to be engaged in illegal recruitment; and

(d) Information and education campaign.

Whenever necessary, the POEA shall coordinate with other appropriate entities in the implementation of said programs.

Sec. 2. Legal Assistance.

The POEA 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, institution of criminal actions.

Sec. 3. Receiving of Complaints for Illegal Recruitment.

Victims of illegal recruitment and related cases which are administrative or criminal in nature may file with the POEA a report or complaint in writing and under oath for assistance purposes.

In regions outside the National Capital Region, complaints and reports involving illegal recruitment may be filed with the appropriate regional office of the POEA or DOLE.

The complaints and reports received by the DOLE shall be endorsed to the POEA for proper evaluation.

Sec. 4. Endorsement of Case to the Proper Prosecution Office.

The POEA, after evaluation and proper determination that sufficient evidence exists for illegal recruitment and other related cases, shall endorse the case to the proper Prosecution Office for the conduct of preliminary investigation.

During preliminary investigation, the complainant may avail of legal assistance or counseling from the POEA.

Sec. 5. Institution of Criminal Action.

The Secretary of Labor and Employment, the POEA Administrator or the DOLE Regional Director, or their duly authorized representatives, or any aggrieved person, may initiate the corresponding criminal action with the appropriate office.

Sec. 6. Affidavits and Testimonies of Operatives.

Affidavits and testimonies of operatives or personnel from the DOLE, POEA, and law enforcement agencies who witnessed the acts constituting the offense shall be sufficient basis to prosecute the accused.

Sec. 7. Legal Assistance During Trial.

In the prosecution of offenses punishable under Section 6 of the Act, the Anti-Illegal Recruitment Branch of the POEA shall collaborate with the public prosecutors of the DOJ and, in certain cases, allow the POEA lawyers to take the lead in prosecution.

Sec. 8. Special Allowance for Lawyers of the Prosecution Division.

The POEA lawyers who act as special counsels during preliminary investigation and/or as collaborating attorneys of the public prosecutors of the DOJ during court hearings shall be entitled to receive additional allowances in such amounts as may be determined by the Administrator.

Sec. 9. Action on the Complaint/Report.

Where the complaint/report alleges that illegal recruitment activities are ongoing, surveillance shall be undertaken at the premises where the alleged illegal recruitment activities are conducted. If illegal recruitment activities are confirmed, the POEA Director of the Licensing and Regulation Office (LRO) shall recommend to the POEA Administrator the institution of criminal action and/or the issuance of a closure order or order of preventive suspension.

Sec. 10. Surveillance.

The POEA and/or designated officials in the DOLE regional offices may, on their own initiative, conduct surveillance on the alleged illegal recruitment activities.

Within two (2) days from the termination of surveillance, a report supported by an affidavit shall be submitted to the Director-LRO or the Regional Director concerned, as the case may be.

Sec. 11. Issuance of Closure Order.

The POEA Administrator or the concerned DOLE Regional Director may conduct an *ex parte* preliminary examination to determine whether the activities of a non-licensee constitute a danger to national security and public order or will lead to further exploitation of job seekers. For this purpose, the POEA Administrator or the Regional Director concerned or their duly authorized representatives, may examine personally the complainants and/or their witnesses in the form of searching questions and answers and shall take their testimony under oath. The testimony of the complainants and/or witnesses shall be reduced in writing and signed by them and attested by an authorized officer.

If based on a surveillance report, or preliminary examination of the complainants, the POEA Administrator or DOLE Regional Director, or their authorized representative is satisfied that such danger or exploitation exists, a written order shall be issued by the POEA Administrator for the closure of the establishment being used for illegal recruitment activity.

In case of a business establishment whose license or permit to operate a business was issued by the local government, the Secretary of Labor and Employment, the POEA Administrator or the Regional Director concerned shall likewise recommend to the granting authority the immediate cancellation/revocation of the license or permit to operate its business.

Sec. 12. Implementation of Closure Order.

A 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 of notice of such closure in bold letters at a conspicuous place in the premises of the establishment. Whenever necessary, the assistance and support of the appropriate law enforcement agencies may be requested for this purpose.

Sec. 13. Report on Implementation.

A report on the implementation of the closure order executed under oath, stating the details of the proceedings undertaken shall be submitted to the Director-LRO or the Regional Director concerned, as the case may be, within two (2) days from the date of implementation.

Sec. 14. Institution of Criminal Action Upon Closure Order.

The POEA Administrator or the DOLE Regional Director, or their duly authorized representatives, or any law enforcement agencies or any aggrieved person may initiate the corresponding criminal action with the appropriate prosecutor's office.

Sec. 15. Effect of Closure Order.

All officers and responsible employees of the entity engaged in illegal recruitment activities shall be ordered included in the List of Persons with Derogatory Record and be disqualified/banned from participating in the overseas employment program of the government.

Sec. 16. Who May File a Motion to Reopen the Establishment.

The motion to re-open may be filed only by the following:

- (a) The owner of the building or his/her duly authorized representative;
- (b) The building administrator or his/her duly authorized representative;

(c) Any other person or entity legitimately operating within the premises closed, padlocked whose operations/activities are distinct from the recruitment activities of the person/entity subject of the closure order.

Sec. 17. Grounds for Reopening the Establishment.

(a) That the office is not the subject of the closure order;

(b) That the contract of lease with the owner of the building or the building administrator has already been cancelled or terminated. The request to re-open shall be duly supported by an affidavit of undertaking either of the owner of the building or the building administrator that the same will not be leased/rented to any other person/entity for recruitment purposes without the necessary license from the POEA;

(c) That the office is shared by a person/entity not involved in illegal recruitment activities, whether directly or indirectly; or

(d) Any other analogous ground that the POEA may consider as valid and meritorious.

Sec. 18. Motion to Lift a Closure Order.

A motion to lift a closure order which has already been implemented may be entertained only when filed with the Licensing and Regulation Office (LRO) within ten (10) calendar days from the date of implementation. The motion shall be verified and shall clearly state the grounds upon which it is based, attaching supporting documents. A motion to lift which does not conform to the requirements herein set forth shall be denied.

Sec. 19. Who May File Motion to Lift a Closure Order.

The verified motion to lift closure order may be filed only by the person or entity against whom the closure order was issued and implemented or a duly authorized representative.

Sec. 20. Grounds for Lifting a Closure Order.

Lifting of the closure order may be granted on any of the following grounds:

(a) The person/entity is later found out or has proven that it is not involved in illegal recruitment activities, whether directly or indirectly; or

(b) Any other analogous ground that the POEA may consider as valid and meritorious.

Lifting of a closure order is without prejudice to the filing of criminal complaints with the appropriate office against the person alleged to have conducted illegal recruitment activities.

Sec. 21. Appeal.

The order of the POEA Administrator denying the motion to lift a closure order and/or motion to re-open may be appealed to the Secretary of Labor and Employment within ten (10) days from receipt thereof.

Sec. 22. Monitoring of Establishments.

The POEA shall monitor establishments that are subject of closure orders.

Where a re-opened office is subsequently confirmed as still being used for illegal recruitment activities, a new closure order shall be issued which shall not be subject to a motion to lift.

Sec. 23. Pre-Employment Orientation Seminar (PEOS).

The POEA shall strengthen its comprehensive Pre-Employment Orientation Program through the conduct of seminars that will discuss topics such as legal modes of hiring for overseas employment, rights, responsibilities and obligations of migrant workers, health issues, prevention and *modus operandi* of illegal recruitment and gender sensitivity.

The POEA shall inform migrant workers not only of their rights as workers but also of their rights as human beings, instruct and guide the workers how to assert their rights and provide the available mechanism to redress violation of their rights.

Sec. 24. Partnership with LGUs, other Government Agencies and NGOs.

The POEA shall maintain and strengthen its partnership with LGUs, other government agencies and NGOs advocating the rights and welfare of OFWs for the purpose of dissemination of information on all aspects of overseas employment.

For this purpose, the POEA shall continuously provide the concerned entities with updated lists of licensed agencies and entities and information materials such as brochures, pamphlets, posters, as well as recent anti-illegal recruitment laws and regulations for distribution to their respective constituents.

RULE VII MONEY CLAIMS

Section 1. Jurisdiction of Labor Arbiters.

Notwithstanding any provision of law to the contrary, the Labor Arbiters of the NLRC shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee

relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.

Sec. 2. Updates in the Global Services Industry.

Consistent with the mandate in the preceding section, the NLRC shall:

- a. Endeavor to update and keep abreast with the developments in the global services industry; and
- b. Participate in international or local conferences involving migration issues and in relevant overseas missions.

Sec.3. Joint and Several Liability.

The liability of the principal/employer and the recruitment/placement agency on any and all claims under this Rule shall be joint and several. This liability shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment/placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the workers.

If the recruitment/placement agency is a juridical being, the corporate officers and directors and partners, as the case may be, shall themselves be jointly and severally liable with the corporation or partnership for the aforesaid claims and damages.

Such liabilities shall continue during the entire period or duration of the employment contract and shall not be affected by any substitution, amendment or modification of the contract made locally or in a foreign country.

Sec. 4. Compromise Agreement.

Any compromise, amicable settlement or voluntary agreement on money claims inclusive of damages under this Rule shall be paid within thirty (30) days from the approval of the settlement by the appropriate authority, unless a different period is agreed upon by the parties and approved by the appropriate authority.

Sec. 5. Effect of Illegal Termination and/or Deduction.

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, or any unauthorized deduction from the migrant worker's salary, the worker shall be entitled to the full reimbursement of his placement fee with interest of twelve per cent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or three (3) months for every year of the unexpired term, whichever is less.

In case of any unauthorized deduction, the worker shall be entitled to the refund of the deductions made, with interest of twelve per cent (12%) per annum, from the date the deduction was made.

Sec. 6. Effect of Final and Executory Judgment.

In case of final and executory judgment against a foreign employer/principal, it shall be automatically disqualified, without further proceedings, from participating in the Philippine Overseas Employment Program and from recruiting and hiring Filipino workers until and unless it fully satisfies the judgment award.

For this purpose, the NLRC or any party in interest shall furnish the POEA a certified true copy of the sheriff's return indicating the failure to fully satisfy a final and executory judgment against a foreign employer/principal.

Should the disqualified foreign employer/principal fully satisfy the judgment award, the NLRC or any party in interest shall furnish the POEA a certified true copy of the sheriff's return indicating full compliance with the judgment which may be a basis to lift the disqualification.

Sec. 7. Voluntary Arbitration.

For OFWs with collective bargaining agreements, the case shall be submitted for voluntary arbitration in accordance with Articles 261 and 262 of the Labor Code.

**RULE VIII
ROLE OF DFA**

Section 1. Assistance to Nationals as the Third Pillar of Philippine Foreign Policy.

Assistance to nationals is the third pillar of Philippine foreign policy. Pursuant to the Philippine Foreign Service Act of 1991 and the Migrant Workers and Overseas Filipinos Act, as amended, the DFA is mandated to formulate and implement policies and programs to promote and protect the rights and welfare of Filipino migrants, and provide consular and legal assistance to overseas Filipinos in distress.

Sec. 2. International, Regional and Bilateral Initiatives to Protect Overseas Filipino Workers.

The DFA shall continue to advocate in international and regional fora the protection and promotion of the rights and welfare of overseas Filipino workers by taking the lead and/or actively participating in the crafting of international and regional conventions/declarations/agreements that protect their rights and promote their welfare.

The DFA, through its foreign service posts, shall endeavor to improve the conditions of overseas Filipino workers. It shall establish harmonious working relations with the receiving

countries through, among others, the forging of bilateral agreements/arrangements or other forms of cooperation.

Sec. 3. One Country-Team Approach.

Under the country-team approach, all officers, representatives and personnel posted abroad, regardless of their mother agencies shall, on a per country basis, act as one country-team with a mission under the leadership of the ambassador.

In receiving countries where there are Philippine consulates, such consulates shall also constitute part of the country-team under the leadership of the ambassador.

In the implementation of the country-team approach, visiting Philippine delegations shall be provided full support and information.

Sec. 4. Negotiations of International Agreements.

The DFA shall be the lead agency that shall advise and assist the President in planning, organizing, directing, coordinating and evaluating the total national effort in the field of foreign relations pursuant to the Revised Administrative Code (Executive Order No. 292).

RULE IX LEGAL ASSISTANT FOR MIGRANT WORKERS AFFAIRS

Section 1. Function and Responsibilities.

The Legal Assistant for Migrant Workers Affairs under the Department of Foreign Affairs shall be primarily responsible for the provision and over-all coordination of all legal assistance services to Filipino Migrant Workers as well as Overseas Filipinos in distress. In the exercise of these primary responsibilities, he/she shall discharge the following duties and functions:

- (a) Issue the guidelines, procedures and criteria for the provision of legal assistance services to Filipino Migrant Workers;
- (b) Establish close linkages with the DOLE, POEA, OWWA and other government agencies concerned, as well as with non-governmental organizations assisting migrant workers, to ensure effective coordination in providing legal assistance to migrant workers;
- (c) When necessary, tap the assistance of the Integrated Bar of the Philippines (IBP), other bar associations, legal experts on labor, migration and human rights laws, reputable law firms, and other civil society organizations, to complement government services and resources to provide legal assistance to migrant workers;

(d) Administer the Legal Assistance Fund for Migrant Workers and to authorize its disbursement, subject to approved guidelines and procedures, governing its use, disposition and disbursement:

(e) Keep and maintain an information system for migration as provided in Section 20 of the Act:

(f) Prepare its budget for inclusion in the Department of Foreign Affairs' budget in the annual General Appropriations Act: and

(h) Perform such other functions and undertake other responsibilities as may be useful, necessary or incidental to the performance of his/her mandate.

Sec. 2. Qualifications and Authority.

The Legal Assistant for Migrant Workers Affairs shall be headed by a lawyer of proven competence in the field of law with at least ten (10) years experience as a legal practitioner and who must not have been a candidate to an elective office in the last local or national elections. He/she shall be appointed by the President of the Philippines. He/she shall have the title, rank, salary, and privileges of an Undersecretary of Foreign Affairs, and shall head the Office of the Undersecretary for Migrant Workers' Affairs (OUMWA) of the Department of Foreign Affairs.

He/She shall have authority to hire private lawyers, domestic or foreign, in order to assist him/her in the effective discharge of the functions of his/her Office.

Sec. 3. Legal Assistance Fund.

The Legal Assistance Fund created under the Act shall be used exclusively to provide legal services for Migrant Workers and Overseas Filipinos in distress in accordance with approved guidelines, criteria and procedures of the DFA.

It shall be used *inter alia* for the following specific purposes:

(a) In the absence of a counsel *de officio* or court-appointed lawyer, payment of attorney's fees to foreign lawyers for their services in representing migrant workers facing criminal and labor cases abroad, or in filing cases against erring or abusive employers abroad, provided, that no amount shall be disbursed for the appeal of cases except when the penalty meted is life imprisonment or death or under meritorious circumstances as determined by the Undersecretary for Migrant Workers Affairs:

(b) Bail bonds to secure the temporary release of workers under detention upon the recommendation of the lawyer and the foreign service post concerned: and

(c) Court fees, charges and other reasonable litigation expenses when so recommended by their lawyers.

RULE X ROLE OF DOLE

Section 1. On-Site Protection.

The DOLE shall see to it that labor and social welfare laws in the foreign countries are fairly applied to migrant workers and whenever applicable, to other overseas Filipinos, including the grant of legal assistance and the referral to proper medical centers or hospitals.

Sec. 2. POLO Functions.

The DOLE overseas operating arm shall be the POLO, which shall have the following functions and responsibilities:

- a. Ensure the promotion and protection of the welfare and interests of OFWs and assist them in all problems arising out of employer-employee relationships;
- b. Coordinate the DOLE's employment promotion mandate, consistent with the principles of the Act;
- c. Verify employment contracts and other employment-related documents;
- d. Monitor and report to the Secretary of Labor and Employment on situations and policy developments in the receiving country that may affect OFWs in particular and Philippine labor policies, in general;
- e. Supervise and coordinate the operations of the Migrant Workers and Other Overseas Filipinos Resource Center; and
- f. Such other functions and responsibilities as may be assigned by the Secretary of Labor and Employment.

A. POEA

Sec. 3. Regulation of Private Sector.

The POEA shall regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system. It shall also formulate and implement, in coordination with appropriate entities concerned, when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements. It shall be responsible for

the regulation and management of overseas employment from the pre-employment stage, securing the best possible employment terms and conditions for overseas Filipino workers, and taking into consideration the needs of vulnerable sectors and the peculiarities of sea-based and land-based workers.

Sec. 4. Hiring through the POEA.

The Administration shall recruit and place workers primarily on government-to-government arrangements. In the recruitment and placement to service the requirements for trained and competent Filipino workers of foreign governments and their instrumentalities, and such other employers as public interests may require, the Administration shall deploy only to countries where the Philippines has concluded bilateral agreements or arrangements; provided that such countries shall guarantee to protect the rights of Filipino migrant workers; and provided further that such countries shall observe and/or comply with the international laws and standards for migrant workers.

Sec. 5. Foreign Employers Guarantee Fund.

For migrant workers recruited by the POEA on a government to government arrangement, the POEA shall, through relevant guidelines, establish and administer a Foreign Employers Guarantee Fund which shall be answerable for the workers' monetary claims arising from breach of contractual obligations.

Sec. 6. Jurisdiction of the POEA.

The POEA shall exercise original and exclusive jurisdiction to hear and decide:

- (a) all pre-employment/recruitment violation cases which are administrative in character, involving or arising out of violations of Rules and Regulations relating to licensing and registration, including refund of fees collected from the workers or violation of the conditions for issuance of license or authority to recruit workers;
- (b) disciplinary action cases and other special cases, which are administrative in character, involving employers, principals, contracting partners and OFWs processed by the POEA.

Sec. 7. Venue.

Pre-employment/recruitment violation cases may be filed with the POEA Adjudication Office or at any DOLE/POEA regional office of the place where the complainant applied or was recruited, at the option of the complainant. The office where the complaint was first filed shall take cognizance of the case.

Disciplinary action cases and other special cases shall be filed with the POEA Adjudication Office.

Sec. 8. Who may file.

Any aggrieved person may file a complaint in writing and under oath for violation of the Labor Code and the POEA Rules and Regulations and other issuances.

For this purpose, an aggrieved person is one who is prejudiced by the commission of a violation or any of the grounds for disciplinary actions provided in the POEA Rules and Regulations.

However, the Administration, on its own initiative, may conduct proceedings based on reports of violations or any of the grounds for disciplinary actions provided in the POEA Rules and Regulations and other issuances on overseas employment, subject to preliminary evaluation.

Sec. 9. Prescriptive Period.

All pre-employment/recruitment violation and disciplinary action cases shall be barred if not commenced or filed with the Administration within three (3) years after such cause of action accrued.

Sec. 10. Imposition of Administrative Penalty.

For pre-employment/recruitment violation cases, the Administrator, in the exercise of adjudicatory power, may impose the penalty of reprimand, suspension, or cancellation or revocation of license.

Where the penalty of suspension is imposed, the Administrator shall, in appropriate cases, allow the lifting of suspension of erring recruitment/manning agencies upon the payment of fine of Fifty Thousand Pesos (Php50,000.00) for every month of suspension.

For disciplinary action cases against employers, the Administrator may impose disqualification from the overseas employment program. For disciplinary action cases against workers, the Administrator may likewise impose suspension or disqualification.

Sec. 11. Appeal.

The decision of the Administrator may be appealed to the Secretary of Labor and Employment filed within fifteen (15) days from the receipt of the Decision.

B. OWWA

Sec. 12. Programs and Services.

The OWWA shall continue to formulate and implement welfare programs for overseas Filipino workers and their families in all phases of overseas employment. It shall also ensure the awareness by the OFWs and their families of these programs and other related governmental programs.

Sec. 13. Assistance in the Enforcement of Contractual Obligations.

In the implementation of OWWA welfare programs and services and in line with the One-Country Team Approach for on-site services, the Welfare Officer or in his/her absence, the Coordinating Officer shall:

1. Provide the Filipino migrant worker and his/her family all the assistance they may need in the enforcement of contractual obligations by agencies or entities and/or by their principals;
2. Make representation and may call on the agencies or entities concerned to conferences or conciliation meetings for the purpose of settling the complaints or problems brought to his/her attention. If there is no final settlement at the jobsite and the worker is repatriated back to the Philippines, conciliation may continue at the OWWA Central Office, or in any OWWA Regional Welfare Office.

C. NRCO

Sec. 14. Establishment of NRCO.

The NRCO is hereby created in the Department of Labor and Employment for returning Filipino migrant workers, which shall provide the mechanism of their reintegration into Philippine society, serve as a promotion house for their local employment, and tap their skills and potentials for national development.

The NRCO shall, in coordination with appropriate government and non-government agencies, serve as a One-Stop Center that shall address the multi-faceted needs of OFW-returnees and their families.

For this purpose, TESDA, the Technology Resource Center (TRC), and other government agencies involved in training and livelihood development shall give priority to household service workers and entertainers:

The NRCO shall be attached to the Office of the Administrator of the OWWA, for supervision and policy guidance.

Sec. 15. Functions of the NRCO.

The NRCO shall undertake the following:

- (a) Develop and support programs and projects for livelihood, entrepreneurship, savings, investments and financial literacy for returning Filipino migrant workers and their families in coordination with relevant stakeholders, service providers and international organizations:
- (b) Coordinate with appropriate stakeholders, service providers and relevant international organizations for the promotion, development and the full utilization of overseas Filipino worker returnees and their potentials:
- (c) Institute, in cooperation with other government agencies concerned, a computer-based information system on returning Filipino migrant workers which shall be accessible to all local recruitment agencies and employers, both public and private:
- (d) Provide a periodic study and assessment of job opportunities for returning Filipino migrant workers:
- (e) Develop and implement other appropriate programs to promote the welfare of returning Filipino migrant workers:
- (f) Maintain an internet-based communication system for on-line registration of returning OFWs and interaction with clients, and maintain and upgrade computer-based service capabilities of the NRCO:
- (g) Develop capacity-building programs for returning overseas Filipino workers and their families, implementers, service providers, and stakeholders:
- (h) Conduct research for policy recommendations and program development: and
- (i) Undertake other programs and activities as may be determined by the Secretary of Labor and Employment.

Sec. 16. Formulation of Program.

The DOLE, OWWA, TESDA, and POEA shall, within sixty (60) days from effectivity of these Rules, formulate a program that would motivate migrant workers to plan for productive options such as entry into highly technical jobs or undertakings, livelihood and entrepreneurial development, better wage employment, and investment of savings.

D. Migrant Workers and Other Overseas Filipinos Resource Center

Sec. 17. Establishment of Migrant Workers and other Overseas Filipinos Resource Center.

A Migrant Workers and other Overseas Filipino Resource Center shall be established in countries where there are large concentration of OFWs, as determined by the Secretary of Labor

and Employment. It shall be established within the premises of the Philippine Embassy or the Consulate and be under the administrative jurisdiction of the Philippine Embassy.

When the Migrant Workers and other Overseas Filipinos Resource Center is established outside the premises of the Embassy or Consulate, the Department of Foreign Affairs shall exert its best effort to secure appropriate recognition from the receiving government in accordance with applicable laws and practices.

Section 18. Services.

The Migrant Workers and other Overseas Filipinos Resource Center shall provide the following services:

- a. Counseling and legal services;
- b. Welfare assistance including the procurement of medical and hospitalization services;
- c. Information, advisory programs to promote social integration such as post-arrival orientation, settlement and community networking services and activities for social interaction;
- d. Registration of irregular/undocumented workers to bring them within the purview of the Act;
- e. Implementation of DOLE and OWWA Programs;
- f. Human resource development, such as training and skills upgrading;
- g. Gender-sensitive programs and activities to assist particular needs of migrant workers;
- h. Orientation program for returning workers and other migrants;
- i. Monitoring of the daily situation, circumstances and activities affecting migrant workers and other overseas Filipinos;
- j. Ensuring that labor and social welfare laws in the receiving country are fairly applied to migrant workers and other overseas Filipinos; and
- k. Conciliation of disputes arising from employer-employee relationship, in accordance with this Rule.

Sec. 19. Personnel.

Each Migrant Workers and Other Overseas Filipinos Resource Center shall be staffed by Foreign Service personnel, a Labor Attaché and other service attachés or officers who represent Philippine government agencies abroad.

The following personnel may be assigned to the Center:

- a. Psychologists, Social Workers, and a Shari'a or Human Rights Lawyer, in highly problematic countries as categorized by the DFA and DOLE and where there is a concentration of Filipino migrant workers;
- b. Individual volunteers and representatives from bona fide non-government organizations from the receiving countries, if available and necessary as determined by the Labor Attaché in consultation with the Chief of Mission;
- c. Public Relations Officer or Case Officer conversant, orally and in writing, with the local language, laws, customs and practices; and/or
- d. Legal Officers (POEA/NLRC/DOLE) and such other professionals deemed necessary by the Secretary of Labor and Employment.

Sec. 20. Administration.

The POLO through the Labor Attaché shall supervise and coordinate the operations of the Migrant Workers and other Overseas Filipinos Resource Center and shall keep the Chief of Mission informed and updated on all matters affecting it at least quarterly through a written report addressed to the Chief of Mission.

Sec. 21. Round-the Clock Operations.

The Migrant Workers and other Overseas Filipino Resource Center shall operate on a 24-hour basis including Saturdays, Sundays and holidays. A counterpart 24-hour Information and Assistance Center to ensure a continuous network and coordinative mechanism shall be established at the DFA and the DOLE/OWWA.

Sec. 22. Budget.

The establishment, yearly maintenance and operating costs of the Migrant Workers and other Overseas Filipinos Resource Centers, including the costs of services and programs not specially funded under the Act, shall be sourced from the General Appropriations Act (GAA) and shall be included in the annual budget of the DOLE.

However, the salaries and allowances of overseas personnel shall be sourced from the respective agencies' budgets.

**RULE XI
ROLE OF LOH**

Section 1. Regulation of Medical Clinics.

The Department of Health (DOH) shall regulate the activities and operations of all clinics which conduct medical, physical, optical, dental, psychological and other similar examinations, hereinafter referred to as health examinations, on Filipino migrant workers as requirement for their overseas employment. Pre-Employment Medical Examinations (PEME) for overseas work applicants shall be performed only in DOH-accredited medical clinics and health facilities utilizing the standards set forth by DOH. Pursuant to this, the DOH shall ensure that:

(a) The fees for the health examinations are regulated, regularly monitored and duly published to ensure that the said fees are reasonable and not exorbitant. The DOH shall set a minimum and maximum range of fees for the different examinations to be conducted, based on a thorough and periodic review of the cost of health examinations and after consultation with concerned stakeholders. The applicant-worker shall pay directly to the DOH-accredited medical clinics or health facilities where the PEME is to be conducted.

(b) The Filipino migrant workers shall only be required to undergo health examinations when there is reasonable certainty as certified by the hiring recruitment/manning agency pursuant to POEA Rules and Regulations that he/she will be hired and deployed to the jobsite and only those health examinations which are absolutely necessary for the type of job applied for or those specifically required by the foreign employer shall be conducted:

(c) No group or groups of medical clinics shall have a monopoly of exclusively conducting health examinations on migrant workers for certain receiving countries:

(d) Every Filipino migrant worker shall have the freedom to choose any of the DOH-accredited or DOH-operated clinics that will conduct his/her health examinations and that his/her rights as a patient are respected. The decking practice, which requires overseas Filipino workers to go first to an office for registration and then fanned out to a medical clinic located elsewhere, shall not be allowed:

(e) Within a period of three (3) years from the effectivity of the Act, all DOH regional and/or provincial hospitals under local government units shall establish and operate clinics that can serve the health examination requirements of Filipino migrant workers to provide them easy access to such clinics all over the country and lessen their transportation and lodging expenses: and

(f) All DOH-accredited medical clinics, including the DOH-operated clinics, conducting health examinations for Filipino migrant workers shall observe the same standard operating procedures and shall comply with internationally-accepted standards in their operations to conform with the requirements of receiving countries or of foreign employers/principals.

Sec. 2. Temporary Disqualification of Foreign Employers.

Any foreign employer who does not honor the results of valid health examinations conducted by a DOH-accredited or DOH-operated clinic shall be temporarily disqualified from participating in the overseas employment program, pursuant to POEA Rules and Regulations. The temporary disqualification of the employer may be lifted only upon the latter's unqualified acceptance of the result of the examination.

Sec. 3. Liability of Medical Clinic or Health Facility.

In case an OFW is found to be not medically fit within 15 days upon his/her arrival in the country of destination, the medical clinic or health facility that conducted the health examinations of such OFW shall pay for his/her repatriation back to the Philippines and the cost of deployment of such worker.

Any DOH-accredited clinic which violates any provisions of this section shall, in addition to any other liability it may have incurred, suffer the penalty of revocation of its DOH-accreditation if after investigation, the medical reason for repatriation could have been detected at the time of examination using the DOH PEME package as required by the employer/principal or the receiving country.

Sec. 4. Liability of Government Personnel for Nonfeasance and Malfeasance of their Duties under the Act.

Any government official or employee who violates any provision of this Rule shall be removed or dismissed from service with disqualification to hold any appointive public office for five (5) years. Such penalty is without prejudice to any other liability which he/she may have incurred under existing laws, rules or regulations.

Sec. 5. Issuance of Guidelines.

Within sixty (60) days from effectivity of these Rules, the DOH shall issue the pertinent guidelines to implement the provisions of this Rule.

RULE XII ROLE OF LGUs

Section 1. Role in Anti-Illegal Recruitment and the Overseas Employment Program.

In the light against illegal recruitment, the local government units (LGUs) and the Department of the Interior and Local Government (DILG), in partnership with the POEA, other concerned government agencies, and non-government organizations advocating the rights and welfare of OFWs, shall take a proactive stance by being primarily responsible for the

dissemination of information to their constituents on all aspects of overseas employment. To carry out this task, the following shall be undertaken by the LGUs:

a. Launch an aggressive campaign against illegal recruitment. They shall provide legal assistance to victims of illegal recruitment and, when necessary, coordinate with appropriate government agencies regarding the arrest and/or prosecution of illegal recruiters. They shall report any illegal recruitment activity to the POEA for appropriate action:

b. Provide a venue for the POEA, other government agencies, NGOs, and trained LGU personnel to conduct Pre-Employment Orientation Seminars (PEOS) to their constituents on a regular basis:

c. Establish OFW help desks or kiosks in their localities with the objective of providing current information to their constituents on all the processes and aspects of overseas employment. Such desks or kiosks shall, as far as practicable, be fully computerized and shall be linked to the database of all concerned government agencies, particularly the POEA for its updated lists of overseas job orders and licensed agencies in good standing; and

d. Establish and maintain a database pertaining to a master list of OFWs residing in their respective localities, classified according to occupation, job category, civil status, gender, by country or state of destination, including visa classification, name, address, and contact number of employer.

RULE XIII REPATRIATION OF WORKERS

Section 1. Primary Responsibility for Repatriation.

The repatriation of the worker or his/her remains, and the transport of his/her personal effects shall be the primary responsibility of the principal, employer or agency that recruited or deployed him/her abroad. All costs attendant thereto shall be borne by the principal, employer or the agency concerned.

Sec. 2. Obligation to Advance Repatriation Costs.

Notwithstanding the provisions of Section 37-A of the Act, the primary responsibility to repatriate entails the obligation on the part of the principal or agency to advance the repatriation and other attendant costs, including plane fare, deployment cost of the principal, and immigration fines and penalties, to immediately repatriate the worker should the need for it arise, without a prior determination of the cause of the termination of the worker's employment. However, after the worker has returned to the country, the principal or agency may recover the cost of repatriation from the worker if the termination of employment was due solely to his/her fault.

In countries where there is a need to secure an exit visa for the worker's repatriation, the principal or employer shall be primarily responsible for securing the visa at no cost to the worker. The agency shall coordinate with the principal or employer in securing the visa.

Every contract for overseas employment shall provide for the primary responsibility of the principal or employer and agency to advance the cost of plane fare, and the obligation of the worker to refund the cost thereof in case his/her fault is determined by the Labor Arbiter.

Sec. 3. Repatriation Procedure.

When a need for repatriation arises and the foreign employer fails to provide for its cost, the POLO or responsible personnel on-site shall simultaneously notify OWWA and the POEA of such need. The POEA shall issue a notice requiring the agency concerned to provide, within 48 hours from such notice, the plane ticket or the prepaid ticket advice (PTA) to the POLO or Philippine Embassy. The agency shall notify the POEA of such compliance, which shall then inform OWWA of the action of the agency.

In case there is a need to secure an exit visa for the repatriation of the worker, the employer or principal shall have fifteen (15) days from notice to secure such an exit visa. Moreover, any agency involved in the worker's recruitment, processing, and/or deployment shall coordinate with the principal or employer in securing the visa.

Sec. 4. Action on Non-Compliance.

If the employment agency fails to provide the ticket or PTA within 48 hours from receipt of the notice, the POEA shall suspend the documentary processing of the agency or impose such sanctions as it may deem necessary. Upon notice from the POEA, OWWA shall advance the costs of repatriation with recourse to the agency or principal. The administrative sanction shall not be lifted until the agency reimburses the OWWA of the cost of repatriation with legal interest.

If the principal or employer and/or agency fail to secure the exit visa within a period of fifteen (15) days from receipt of the POEA notice, the POEA shall suspend the employer or principal from participating in the overseas employment program, and may impose suspension of documentary processing on the agency, if warranted.

Sec. 5. Emergency Repatriation.

The OWWA, in coordination with DFA, and in appropriate situations, with international agencies, shall undertake the repatriation of workers in cases of war, epidemic, disasters or calamities, natural or man-made, and other similar events without prejudice to reimbursement by the responsible principal or agency within sixty (60) days of notice. In such case, the POEA shall simultaneously identify and give notice to the agencies concerned.

Sec. 6. Mandatory Repatriation of Underage Migrant Workers.

Upon discovery or upon being informed of the presence of migrant workers whose actual ages fall below the minimum age requirement for overseas deployment, the responsible officers in the Foreign Service shall without delay repatriate said workers and advise the DFA through the fastest means of communication available of such discovery and other relevant information.

In addition to requiring the recruitment/manning agency to pay or reimburse the costs of repatriation, the POEA shall cancel the license of the recruitment/manning agency that deployed an underage migrant worker after notice and hearing and shall impose a fine of not less than Five Hundred Thousand Pesos (Php500,000.00) but not more than One Million Pesos (Php1,000,000.00). The POEA shall also order the recruitment/manning agency to refund all fees pertinent to the processing of papers or documents in the deployment, to the underage migrant worker or to his parents or guardian in a summary proceeding conducted.

The refund shall be independent of and in addition to the indemnification for the damages sustained by the underage migrant worker. The refund shall be paid within thirty (30) days from the date the POEA is officially informed of the mandatory repatriation as provided for in the Act.

Sec. 7. Other Cases of Repatriation.

In all cases where the principal or agency of the worker cannot be identified, cannot be located or had ceased operations, and the worker is in need and without means, the OWWA personnel at the jobsite, in coordination with the DFA, shall cause the repatriation in appropriate cases. All costs attendant to repatriation borne by the OWWA may be charged to the Emergency Repatriation Fund provided in the Act, without prejudice to the OWWA requiring the agency employer/insurer or the worker to reimburse the cost of repatriation.

Sec. 8. Emergency Repatriation Fund.

When repatriation becomes immediate and necessary, the OWWA shall advance the needed costs from the Emergency Repatriation Fund without prejudice to reimbursement by the deploying agency and/or principal, or the worker in appropriate cases. Simultaneously, the POEA shall ask the concerned agency to work towards reimbursement of costs advanced by the OWWA. In cases where the cost of repatriation shall exceed One Hundred Million Pesos (Php100,000,000.00), the OWWA shall make representation with the Office of the President for immediate funding in excess of said amount.

Sec. 9. Prohibition on Bonds and Deposits.

In no case shall a private recruitment/manning agency require any bond or cash deposit from the worker to guarantee performance under the contract or his/her repatriation.

RULE XIV SHARED GOVERNMENT INFORMATION SYSTEM FOR MIGRATION

Section 1. Composition.

An inter-agency committee shall be established to implement a shared government information system for migration. The inter-agency committee shall be composed of the following agencies:

- a) Department of Foreign Affairs;
- b) Department of Labor and Employment and concerned attached agencies;
- c) Department of Justice;
- d) Department of the Interior and Local Government;
- e) Department of Health and concerned attached agencies;
- f) Department of Social Welfare and Development;
- g) Department of Tourism;
- h) Insurance Commission;
- i) Commission on Filipinos Overseas;
- j) Bureau of Immigration;
- k) National Bureau of Investigation;
- l) National Telecommunications Commission;
- m) Commission on Information and Communications Technology;
- n) National Computer Center;
- o) National Statistical and Coordination Board;
- p) National Statistics Office;
- q) Home Development Mutual Fund; and
- r) Other government agencies concerned with overseas employment.

Sec. 2. Availability, Accessibility and Linkaging of Computer Systems.

Initially, the Inter-Agency Committee shall make available to itself the information contained in existing data bases/files of its member agencies. The second phase shall involve linkaging of computer facilities systems in order to allow the free-flow data exchanges and sharing among concerned agencies.

Sec. 3. Chair and Technical Assistance.

The inter-agency committee shall be co-chaired by the Department of Foreign Affairs and the Department of Labor and Employment. The National Computer Center shall provide the necessary technical assistance and shall set the appropriate information and communications technology standards to facilitate the sharing of information among the member agencies.

Sec. 4. Declassification and Sharing of Existing Information.

The inter-agency committee shall convene to identify existing databases, which shall be declassified and shared among member agencies. These shared databases shall initially include, but not be limited to, the following information:

- a) Master lists of Filipino migrant workers/overseas Filipinos classified according to occupation/job category, civil status, by country/state of destination including visa classification;
- b) Inventory of pending legal cases involving Filipino migrant workers and other Filipino migrant workers and other Filipino nationals, including those serving prison terms;
- c) Master list of departing/arriving Filipinos;
- d) Statistical profile on Filipino migrant workers/overseas Filipinos/tourists;
- e) Blacklisted foreigners/undesirable aliens;
- f) Basic data on legal systems, immigration policies, marriage laws and civil and criminal codes in receiving countries particularly those with large numbers of Filipinos;
- g) List of labor and other human rights instruments where receiving countries are signatories;
- h) A tracking system of past and present gender disaggregated cases involving male and female migrant workers, including minors;
- i) List of overseas posts, which may render assistance to overseas Filipinos in general, and migrant workers, in particular.
- (j) List of licensed recruiters and recruitment agencies;
- (k) List of accredited foreign employers;
- (l) List of recruiters and recruitment agencies with decided/pending criminal/civil/administrative cases, and their dispositions; and
- (m) Such other information as may be deemed necessary by the Inter-Agency Committee.

The Inter-Agency Committee shall establish policies, guidelines, and procedures, in implementing this Rule, including declassification of information.

Sec. 5. Confidentiality of Information.

Information and data acquired through this shared information system shall be treated as confidential and shall only be used for official and lawful purposes, related to the usual functions of the inter-agency committee members, and for purposes envisioned by the Act.

Sec. 6. Regular Meetings.

The inter-agency committee shall meet regularly to ensure the immediate and full implementation of Section 20 of the Act and shall explore the possibility of setting up a central storage facility for the data on migration. The progress of the implementation shall be included in the report of the DFA and the DOLE under Section 33 of the Act.

The inter-agency committee shall convene thirty (30) days from effectivity of these Rules to prioritize the discussion of the following, *inter alia*: data to be shared, frequency of reporting, and timeliness and availability of data.

Sec. 7. Secretariat.

A secretariat, which shall provide administrative and support services to the inter-agency committee shall be based in the DFA.

Sec. 8. Funds.

The Philippine Charity Sweepstakes Office shall allocate an initial amount of P10 Million to carry out the provisions of this Rule. Thereafter, the actual budget of the Inter-Agency Committee shall be drawn from the General Appropriations Act in accordance with Section 26 of Republic Act No. 10022.

The E-Government Fund may be tapped for purposes of fund sourcing by the Inter-Agency Committee.

RULE XV MIGRANT WORKERS LOAN GUARANTEE FUND

Section 1. Definitions.

(a) Pre-Departure Loans - refer to loans granted to departing migrant workers covered by new contracts to satisfy their pre-departure requirements such as payments for placement/processing fees, airplane fare, subsistence allowance, cost of clothing and pocket money.

(b) Family Assistance Loans - refer to loans granted to currently employed migrant workers or their eligible dependents/families in the Philippines to tide them over during emergency situations.

(c) Guarantee Agreement - refers to a contract between the participating financial institution and OWWA whereby the latter pledges to pay a loan obtained by a migrant worker from the former in case the worker defaults.

(d) GFIs - refer to government financial institutions.

Sec. 2. Loan Guarantee Fund.

The Migrant Workers Loan Guarantee Fund is hereby established:

- (a) to prevent any recruiter from taking advantage of workers seeking employment abroad by expanding the grant of Pre-Departure and Family Assistance Loans to covered migrant workers;
- (b) to establish and operate a guarantee system in order to provide guarantee cover on the pre-departure and family assistance loans of migrant workers who lack or have insufficient collateral or securities; and
- (c) to ensure the participation of GFIs in extending loan assistance to needy migrant workers who are to be engaged or is engaged for a remunerated activity abroad.

Sec. 3. Coverage and Scope.

All departing migrant workers who need financial assistance to pay or satisfy their pre-departure expenses may avail of the Pre-Departure Loans.

Currently employed migrant workers or their eligible dependents who need emergency financing assistance may avail of the Family Assistance Loan.

Sec. 4. Administration of the Fund.

Pursuant to Section 21 of the Act, the amount of One Hundred Million Pesos (Php100,000,000.00) from the Capital Funds of OWWA shall constitute the Migrant Workers Loan Guarantee Fund. The Fund, which shall be administered by the OWWA, shall be used exclusively to guarantee the repayment of Pre-Departure and Family Assistance Loans granted by participating GFIs.

All existing revolving funds earmarked for the Pre-Departure and Family Assistance Loans shall revert back to the OWWA Capital Fund.

Sec. 5. Financing Scheme.

The OWWA shall initiate arrangements with GFIs to implement mutually agreed financing schemes that will expand the Pre-Departure and Family Assistance Loans.

Sec. 6. Guarantee Agreement.

No loan shall be considered covered by a guarantee unless a Guarantee Agreement has been prepared and approved by both the participating financial institution and the OWWA.

**RULE XVI
COMPULSORY INSURANCE COVERAGE
FOR AGENCY-HIRED WORKERS**

Section 1. Migrant Workers Covered.

In addition to the performance bond to be filed by the recruitment/manning agency under Section 10 of the Act, each migrant worker deployed by a recruitment/manning agency shall be covered by a compulsory insurance policy which shall be secured at no cost to the said worker.

Sec. 2. Policy Coverage.

Such insurance policy shall be effective for the duration of the migrant worker's employment contract and shall cover, at the minimum:

(a) Accidental death, with at least Fifteen Thousand United States Dollars (US\$ 15,000.00) survivor's benefit payable to the migrant worker's beneficiaries;

(b) Natural death, with at least Ten Thousand United States Dollars (US\$ 10,000.00) survivor's benefit payable to the migrant worker's beneficiaries;

(c) Permanent total disablement, with at least Seven Thousand Five Hundred United States Dollars (US\$7,500) disability benefit payable to the migrant worker. The following disabilities shall be deemed permanent: total, complete loss of sight of both eyes; loss of two limbs at or above the ankles or wrists; permanent complete paralysis of two limbs; brain injury resulting to incurable imbecility or insanity;

(d) Repatriation cost of the worker when his/her employment is terminated by the employer without any valid cause, or by the employee with just cause, including the transport of his/her personal belongings. In case of death, the insurance provider shall arrange and pay for the repatriation or return of the worker's remains. The insurance provider shall also render any assistance necessary in the transport, including but not limited to, locating a local and licensed funeral home, mortuary or direct disposition facility to prepare the body for transport, completing all documentation, obtaining legal clearances, procuring consular services, providing death certificates, purchasing the minimally necessary casket or air transport container, as well as transporting the remains including retrieval from site of death and delivery to the receiving funeral home. This provision shall be without prejudice to the provisions of Rule XIII of these Rules and Regulations;

(e) Subsistence allowance benefit, with at least One Hundred United States Dollars (US\$100) per month for a maximum of six (6) months for a migrant worker who is involved in a case or litigation for the protection of his/her rights in the receiving country;

(f) Money claims arising from employer's liability which may be awarded or given to the worker in a judgment or settlement of his/her case in the NLRC. The insurance coverage for

money claims shall be equivalent to at least three (3) months salaries for every year of the migrant worker's employment contract:

(g) Compassionate visit. When a migrant worker is hospitalized and has been confined for at least seven (7) consecutive days, he shall be entitled to a compassionate visit by one (1) family member or a requested individual. The insurance company shall pay for the transportation cost of the family member or requested individual to the major airport closest to the place of hospitalization of the worker. It is, however, the responsibility of the family member or requested individual to meet all visa and travel document requirements:

(h) Medical evacuation. When an adequate medical facility is not available proximate to the migrant worker, as determined by the insurance company's physician and a consulting physician, evacuation under appropriate medical supervision by the mode of transport necessary shall be undertaken by the insurance provider: and

(i) Medical repatriation. When medically necessary as determined by the attending physician, repatriation under medical supervision to the migrant worker's residence shall be undertaken by the insurance provider at such time that the migrant worker is medically cleared for travel by commercial carrier. If the period to receive medical clearance to travel exceeds fourteen (14) days from the date of discharge from the hospital, an alternative appropriate mode of transportation, such as air ambulance, may be arranged. Medical and non-medical escorts may be provided when necessary. This provision shall be without prejudice to the provisions of Rule XIII of these Rules and Regulations.

Sec. 3. Duty to Disclose and Assist.

It shall be the duty of the recruitment/manning agency, in collaboration with the insurance provider, to sufficiently explain to the migrant worker, before his/her departure, and to at least one of his/her beneficiaries the terms and benefits of the insurance coverage, including the claims procedure.

Also, in filing a claim with the insurance provider, it shall be the duty of the recruitment manning agency to assist the migrant worker and/or the beneficiary and to ensure that all information and documents in the custody of the agency necessary for the claim must be readily accessible to the claimant.

Sec. 4. Qualification of Insurance Companies.

Only reputable private insurance companies duly registered with the IC, which are in existence and operational for at least five (5) years, with a net worth of at least Five Hundred Million Pesos (Php500,000,000.00) to be determined by the IC, and with a current year certificate of authority shall be qualified to provide for the worker's insurance coverage. Insurance companies who have directors, partners, officers, employees or agents with relatives, within the fourth civil degree of consanguinity or affinity, who work or have interest in any of the licensed recruitment/manning agencies or in any of the government agencies involved in the

overseas employment program shall be disqualified from providing this workers' insurance coverage. It shall be the duty of the said directors, partners, officers, employees or agents to disclose any such interest to the IC and POEA.

Sec. 5. Requirement for Issuance of OEC.

The recruitment/manning agency shall have the right to choose from any of the qualified insurance providers the company that will insure the migrant worker it will deploy. After procuring such insurance policy, the recruitment/manning agency shall provide an authenticated copy thereof to the migrant worker. It shall then submit the certificate of insurance coverage of the migrant worker to POEA as a requirement for the issuance of Overseas Employment Certificate (OEC) to the migrant worker. In the case of seafarers who are insured under policies issued by foreign insurance companies, the POEA shall accept certificates or other proofs of cover from recruitment/manning agencies: Provided, That the minimum coverage under subparagraphs (a) to (i) are included therein. For this purpose, foreign insurance companies shall include entities providing indemnity cover to the vessel.

Sec. 6. Notice of Claim.

Any person having a claim upon the policy issued pursuant to subparagraphs (a), (b), (c), (d) and (e) of Section 2 of this Rule shall present to the insurance company concerned a written notice of claim together with pertinent supporting documents. The insurance company shall forthwith ascertain the truth and extent of the claim and make payment within ten (10) days from the filing of the notice of claim.

Sec. 7. Documentary Requirements for Accidental or Natural Death or Disablement Claims.

Any claim arising from accidental death, natural death or permanent total disablement under Section 2 (a), (b) and (c) shall be paid by the insurance company without any contest and without the necessity of proving fault or negligence of any kind on the part of the insured migrant worker: Provided the following documents, duly authenticated by the Philippine foreign posts, shall be sufficient evidence to substantiate the claim:

- 1) Death Certificate – in case of natural or accidental death;
- 2) Police or Accident Report – in case of accidental death; and
- 3) Medical Certificate – in case of permanent disablement.

In the case of a seafarer, the amounts provided in Section 2 (a), (b), or (c), as the case may be, shall, within ten (10) days from submission of the above-stated documents, be paid by the foreign insurance company through its Philippine representative to the seafarer/beneficiary without any contest and without any necessity of proving fault or negligence on the part of the seafarer. Such amount received by the seafarer/beneficiary shall form part of and be deducted from whatever benefits the seafarer/beneficiary may be entitled to under the provisions of the

POEA-Standard Employment Contract or collective bargaining agreement (CBA). Any claim in excess of the amount paid pursuant to the no contest, no fault or negligence provision of this section shall be determined in accordance with the POEA-SEC or CBA.

Sec. 8. Documentary Requirement for Repatriation Claim.

For repatriation under subparagraph (d) of Section 2 of this Rule, a certification which states the reasons for the termination of the migrant worker's employment and the need for his/her repatriation shall be issued by the Philippine foreign post or the Philippine Overseas Labor Office (POLO) located in the receiving country. Such certification shall be solely for the purpose of complying with this section.

Sec. 9. Documentary Requirements for Subsistence Allowance Benefit Claim.

For subsistence allowance benefit under sub-paragraph (e) of Section 2 of this Rule, the concerned Labor Attaché or, in his absence, the embassy or consular official shall issue a certification which states the title of the case, the names of the parties and the nature of the cause of action of the migrant worker.

Sec. 10. Settlement of Money Claims.

For the payment of money claims under sub-paragraph (f) of Section 2 of this Rule, the following rules shall govern:

(1) After a decision has become final and executory or a settlement/compromise agreement has been reached between the parties at the NLRC, the Labor Arbiter shall, *motu proprio* or upon motion, and following the conduct of pre-execution conference, issue a writ of execution mandating the respondent recruitment/manning agency to pay the amount adjudged or agreed upon within thirty (30) days from receipt thereof:

(2) The recruitment/manning agency shall then immediately file a notice of claim with its insurance provider for the amount of liability insured, attaching therewith a certified true copy of the decision or compromise agreement:

(3) Within ten (10) days from the filing of notice of claim, the insurance company shall make payment to the recruitment/manning agency the amount adjudged or agreed upon, or the amount of liability insured, whichever is lower. After receiving the insurance payment, the recruitment/manning agency shall immediately pay the migrant worker's claim in full, taking into account that in case the amount of insurance coverage is insufficient to satisfy the amount adjudged or agreed upon, it is liable to pay the balance thereof:

(4) In case the insurance company fails to make payment within ten (10) days from the filing of the claim, the recruitment/manning agency shall pay the amount adjudged or

agreed upon within the remaining days of the thirty-day period, as provided in the first sub-paragraph hereof:

(5) If the worker's claim was not settled within the aforesaid thirty-day period, the recruitment/manning agency's performance bond or escrow deposit shall be forthwith garnished to satisfy the migrant worker's claim:

(6) The provision of compulsory worker's insurance under this section shall not affect the joint and several liability of the foreign employer and the recruitment/manning agency under Section 10 of the Act:

(7) Lawyers for the insurance companies, unless the latter are impleaded, shall be prohibited to appear before the NLRC in money claims cases under Rule VII.

Sec. 11. Disputes in the Enforcement of Insurance Claims.

Any question or dispute in the enforcement of any insurance policy issued under this Rule shall be brought before the IC for mediation or adjudication.

Notwithstanding the preceding paragraph, the NLRC shall have the exclusive jurisdiction to enforce against the recruitment/manning agency its decision, resolution or order that has become final and executory or a settlement/compromise agreement reached between the parties.

Sec. 12. Liability of Recruitment/Manning Agency.

In case it is shown by substantial evidence before the POEA that the migrant worker who was deployed by a licensed recruitment/manning agency has paid for the premium or the cost of the insurance coverage or that the said insurance coverage was used as basis by the recruitment/manning agency to claim any additional fee from the migrant worker, the said licensed recruitment/manning agency shall lose its license and all its directors, partners, proprietors, officers and employees shall be perpetually disqualified from engaging in the business of recruitment of overseas workers. Such penalty is without prejudice to any other liability which such persons may have incurred under existing laws, rules or regulations.

Sec. 13. Foreign Employers Guarantee Fund.

For migrant workers recruited by the POEA on a government-to-government arrangement, the POEA Foreign Employers Guarantee Fund referred to under Section 5, Rule X of these Rules shall be answerable for the workers' monetary claims arising from breach of contractual obligations.

Sec. 14. Optional Coverage.

For migrant workers classified as rehires, name hires or direct hires, they may opt to be covered by this insurance coverage by requesting their foreign employers to pay for the cost of

the insurance coverage or they may pay for the premium themselves. To protect the rights of these workers, the DOLE and POEA shall provide them adequate legal assistance, including conciliation and mediation services, whether at home or abroad.

Sec. 15. Formulation of Implementing Rules and Regulations.

Within thirty (30) days from the effectivity of these Rules, and pursuant to Section 37-A of the Act, the IC, as the lead agency, shall, together with DOLE, NLRC, and POEA, in consultation with the recruitment/manning agencies and legitimate non-government organizations advocating the rights and welfare of OFWS, issue the necessary implementing rules and regulations, which shall include the following:

1. Qualifications of participating insurers;
2. Accreditation of insurers;
3. Uniform Standard Policy format;
4. Premium rate;
5. Benefits;
6. Underwriting Guidelines;
7. Claims procedure;
8. Dispute settlement;
9. Administrative monitoring and supervision; and
10. Other matters deemed necessary.

Within five (5) days from effectivity of these Rules, the IC shall convene the inter-agency committee to commence the formulation of the aforesaid necessary rules and regulations.

Sec. 16. Assessment of Performance of Insurance Providers.

At the end of every year, the DOLE and the IC shall jointly make an assessment of the performance of all insurance providers, based upon the report of NLRC and POEA on their respective interactions and experiences with the insurance companies, and they shall have the authority to ban or blacklist such insurance companies which are known to be evasive or not responsive to the legitimate claims of migrant workers. The DOLE shall include such assessment in its year-end report to Congress.

Sec. 17. Automatic Review.

The foregoing provisions on mandatory insurance coverage shall be subject to automatic review through the Congressional Oversight Committee immediately after three (3) years from the effectivity of the Act in order to determine its efficacy in favor of the covered OFWs and the compliance by recruitment/manning agencies and insurance companies, without prejudice to an earlier review if necessary and warranted for the purpose of modifying, amending and/or repealing these subject provisions.

RULE XVII
MISCELLANEOUS PROVISIONS

Section 1. POEA, OWWA, and other Boards.

Notwithstanding any provision of law to the contrary, the respective boards of the POEA and the OWWA shall have three (3) members each who shall come from the women, sea-based and land-based sectors respectively, to be selected and nominated openly by the general membership of the sector being represented.

The selection and nomination of the additional members from the women, sea-based and land-based sectors shall be governed by the following guidelines:

(a) The POEA and OWWA shall launch a massive information campaign on the selection of nominees and provide for a system of consultative sessions for the certified leaders or representatives of the concerned sectors, at least three (3) times, within ninety days (90) before the Boards shall be convened, for purposes of selection. The process shall be open, democratic and transparent:

(b) Only non-government organizations that protect and promote the rights and welfare of overseas Filipino workers, duly registered with the appropriate Philippine government agency and in good standing as such, and in existence for at least three (3) years prior to the nomination shall be qualified to nominate a representative for each sector to the Board:

(c) The nominee must be at least 25 years of age, able to read and write, and a migrant worker at the time of his/her nomination or was a migrant worker with at least three (3) years experience as such:

(d) A Selection and Screening Committee shall be established within the POEA and OWWA by the Secretary of Labor and Employment to formulate the procedures on application, screening and consultation, and shall be responsible to provide the list of qualified nominees to their respective Governing Boards; and

(e) The final list of all the nominees selected by the OWWA/POEA Governing Boards, which shall consist of three (3) names for each sector to be represented, shall be submitted to the President and published in a newspaper of general circulation.

Incumbent representatives appointed pursuant to this section and who are eligible for re-appointment shall be automatically included in the list referred to under subsection (d).

Within thirty (30) days from the submission of the final list referred to under subsection (e), the President shall select and appoint from the list the representatives to the POEA/OWWA Governing Boards.

The members shall have a term of three (3) years and shall be eligible for reappointment for another three (3) years. In case of vacancy, the President shall, in accordance with the provisions of the Act, appoint a replacement who shall serve the unexpired term of his/her predecessor.

All other government agencies and government-owned or controlled corporations which require at least one (1) representative from the overseas workers sector to their respective boards shall follow all the applicable provisions of this section, subject to the respective Charters, Implementing Rules and Regulations, and internal policies of such agencies and corporations.

The existing members of the Governing Boards of POEA and OWWA representing the women, land-based, or sea-based sectors shall serve the remaining portion of their three-year terms. Thereafter, their positions shall be deemed vacant, and the process of selection of their replacements shall be in accordance with this Rule. If the incumbent is eligible for re-appointment, he/she shall continue to serve until re-appointed or another person is appointed in accordance with this Rule.

Incumbent representatives in the Governing Board with no fixed term shall remain in holdover capacity, until a replacement is appointed in accordance with this section.

Sec. 2. Report to Congress.

In order to inform the Philippine Congress on the implementation of the policy enunciated in Section 4 of the Act, the DFA and the DOLE shall submit separately to the said body a semi-annual report of Philippine foreign posts located in, or exercising consular jurisdiction over, countries receiving Filipino migrant workers. The mid-year report covering the period January to June shall be submitted not later than October 31 of the same year while the year-end report covering the period July to December shall be submitted not later than May 31 of the following year. The report shall include, but shall not be limited to, the following information:

- (a) Master list of Filipino migrant workers, and inventory of pending cases involving them and other Filipino nationals including those serving prison terms;
- (b) Working conditions of Filipino migrant workers;
- (c) Problems encountered by the migrant workers, specifically violations of their rights;
- (d) Initiative/actions taken by the Philippine foreign posts to address the problems of Filipino migrant workers;
- (e) Changes in the laws and policies of receiving countries; and
- (f) Status of negotiations on bilateral labor agreements between the Philippines and the receiving country.

Sec. 3. Effect on Failure to Report.

Any officer of the government who has the legal duty to report, yet fails to submit the aforesaid Report to Congress, without justifiable cause, shall be subject to an administrative penalty of dismissal from the service with disqualification to hold any appointive public office for five (5) years.

Sec. 4. Government Fees, Administrative Costs and Taxes.

All fees for services being charged by any government agency on migrant workers prevailing at the time of the effectivity of this Rule shall not be increased. All other services rendered by the DOLE and other government agencies in connection with the recruitment and placement of and assistance to migrant workers shall be rendered free. The administrative cost thereof shall not be borne by the worker.

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

The remittances of all OFWs, upon showing of the OEC or valid OWWA Membership certificate by the OFW beneficiary or recipient, shall be exempt from the payment of documentary stamp tax (DST) as imposed under Section 181 of the National Internal Revenue Code, as amended.

In addition to the original copy, a duplicate copy or a certified true copy of the valid proof of entitlement referred to above shall be secured by the OFW from the POEA or OWWA, which shall be held and used by his/her beneficiary in the availment of the DST exemption.

In case of OFWs whose remittances are sent through the banking system, credited to beneficiaries or recipient's account in the Philippines and withdrawn through an automatic teller machine (ATM), it shall be the responsibility of the OFW to show the valid proof of entitlement when making arrangement for his/her remittance transfers.

A proof of entitlement that is no longer valid shall not entitle an OFW to DST payment exemption.

The Bureau of Internal Revenue (BIR), under the Department of Finance, may promulgate revenue regulations deemed necessary and appropriate for the effective implementation of the exemption of OFWs from DST and travel tax.

Sec. 5. Establishment of the Congressional Migrant Workers Scholarship Fund.

There is hereby created a Congressional Migrant Workers Scholarship Fund which shall benefit deserving migrant workers and/or their immediate descendants who intend to pursue courses or training primarily in the field of science and technology, as defined by the DOST.

The fund of One Hundred Fifty Million Pesos (P150,000,000.00) shall be sourced from the proceeds of Lotto draws.

Sec. 6. Creation of the Scholarship Fund Committee.

There is hereby created a Scholarship Fund Committee to be composed of representatives from the DOLE, DOST, POEA, OWWA, TESDA and two (2) representatives of migrant workers to be appointed by the Secretary of Labor and Employment.

Sec. 7. Functions of the Scholarship Fund Committee.

- (a) To set the coverage, criteria and standards of admission to the Scholarship Program;
- (b) To determine the amount of availment;
- (c) To monitor and evaluate the program;
- (d) To identify/accredit training and testing institutions; and
- (e) To perform such other functions necessary to attain the purpose of the Fund.

Sec. 8. Implementing Agency.

The OWWA shall be the Secretariat of the Scholarship Fund Committee. As such, it shall administer the Scholarship Program, in coordination with the DOST.

**RULE XVIII
FUNDING**

Section 1. Sources of Funds.

The departments, agencies, instrumentalities, bureaus, offices and government-owned and controlled corporations charged with carrying out the provisions of the Act shall include in their respective programs the implementation of the Act, the funding of which shall be included in the General Appropriations Act.

**RULE XIX
MIGRANT WORKERS DAY**

Section 1. Commemoration.

The DOLE shall lead and enlist the cooperation of other government agencies in the commemoration of a Migrant Workers Day on 7 June of every year.

**RULE XX
TRANSITORY PROVISIONS**

Section 1. Applicability of Criteria for Receiving Countries.

In compliance with Section 4 of the Act, the DFA shall, within ninety (90) days from effectivity of these Rules and Regulations, issue the certification for countries where the Philippines maintains an embassy.

In countries where the Philippine Embassy exercises concurrent jurisdiction and where the Ambassador is non-resident, the DFA shall have one hundred twenty days (120) from the effectivity of these Rules to issue the certification required in Section 4 of the Act. Prior to the expiration of the aforesaid period, the Secretary of Foreign Affairs, in consultation with the Secretary of Labor and Employment, shall allow the reasonable extension of the period for the issuance of the certification upon a determination that there is a need therefor.

Pending the issuance of the required certifications of compliance or determinations of non-compliance and within the periods mentioned in the preceding paragraphs, the deployment of migrant workers overseas shall proceed on a *status quo* basis.

For purposes of issuance of the certifications, the DFA shall, in consultation with the POEA, issue a standard format to be accomplished by all Foreign Service posts.

Sec. 2. Effectivity of Compulsory Insurance Requirement.

All OFWs who were issued Overseas Employment Certificates prior to the effectivity of the necessary rules and regulations referred to under Section 15 of Rule XVI shall not be covered by the compulsory insurance requirement.

**RULE XXI
FINAL PROVISIONS**

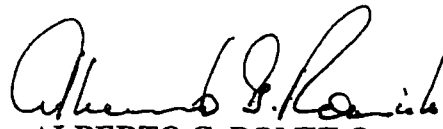
Section 1. Repealing Clause.


All Department Orders, Circulars and implementing Rules and Regulations inconsistent with these Omnibus Rules and Regulations are hereby repealed or amended accordingly.


Sec. 2. Effectivity.

The provisions of these Rules and Regulations shall take effect fifteen days (15) after publication in two (2) newspapers of general circulation.


Done in the City of Manila, this ___ day of July, 2010.


ALBERTO G. ROMULO
Secretary
Department of Foreign Affairs


ROSALINDA DIMAPILIS-BALDOZ
Secretary
Department of Labor and Employment


ENRIQUE T. ONA
Secretary
Department of Health


GERARDO BENJAMIN C. NOGRALES
Chairman
National Labor Relations Commission (NLRC)


VIDA TACHIONG
Officer-in-Charge
Insurance Commission