



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



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REVISED RULES AND REGULATIONS FOR THE ISSUANCE OF EMPLOYMENT PERMITS TO FOREIGN NATIONALS

Pursuant to the provisions of Articles 5, 40, 41, and 128 of Presidential Decree 442, as amended, and the provisions of Rule XIV, Book 1 of its Implementing Rules and Regulations, Section 17(5), Chapter 4, Title VII of the Administrative Code of 1987¹, the following Rules are hereby promulgated to govern the employment of foreign nationals:

Policy Declaration. It is the Policy of the State:

1. To promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive.
2. That the practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law.
3. To afford protection to Filipino labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed and regulate the relations between workers and employers.

Further, it is the Policy of the Department:

1. To regulate the employment of foreign nationals to safeguard the interest of Filipino workers.
2. That the employment of foreign nationals in the Philippines shall be subject to the determination of the non-availability of a Filipino citizen who is competent, able, and willing to perform the services for which the foreign national is desired.
3. To establish and maintain a registration and/or work permit system for foreign nationals intending to engage in gainful employment in the Philippines and afford them same protection as to Filipino labor regardless of sex, race or creed and regulate the relations between workers and employers.

¹ Executive Order No. 292, series of 1987

Section 1. Definition of Terms. The following shall mean and referred to as:

1. **Alien Certificate of Registration (ACR) I-Card²** – a microchip based, credit card-sized, identification card issued by the Bureau of Immigration (BI) to all registered aliens whose stay in the Philippines has exceeded fifty-nine (59) days.
2. **Alien Employment Permit (AEP)** – a permit issued by the Department of Labor and Employment (DOLE) to foreign nationals pursuant to the employment arrangement with a Philippine-based company, after the conduct of the Labor Market Test (LMT).
3. **Applicant** – the foreign national or the Philippine-based employer applying for an AEP or certificate of exclusion or exemption.
4. **Authority to Employ Alien (AEA)** – a permit issued by the Department of Justice (DOJ) to a company/employer engaged in wholly or partially nationalized industry who intends to employ foreign nationals to occupy technical positions.
5. **Authority to Hire Foreign National (AHFN)** – a permit issued by the Department of Environment and Natural Resources (DENR) to the company/ employer engaged in mining operation to employ foreign nationals.
6. **Authorized Representative** –
 - a. Appointed human resource personnel or a liaison officer covered by a duly notarized Special Power of Attorney (SPA) - in case of sole proprietorship;
 - b. Duly authorized officer/employee covered by a duly notarized Board Resolution/Secretary's Certificate in case of partnerships/corporation; or
 - c. Accredited agents, or duly authorized agents by the employer covered by a duly notarized Service Contract Agreement for sole proprietorship or by a duly notarized Board Resolution/Secretary's Certificate for partnerships and corporation or its equivalent subject to the institution of the dole's accreditation system.
7. **Certificate of Exclusion** – a document issued to a category of foreign nationals as enumerated under Section 20 of this rules.
8. **Certificate of Exemption** – a document issued to a category of foreign nationals as enumerated under Section 18 of this rules.
9. **Due Process³**– opportunity of party/ies to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.

² As defined on the Bureau of Immigration official website – www.immigration.gov.ph

³Ray Peter O. Vivo vs. Philippine Amusement and Gaming Corporation (PAGCOR). November 12, 2013, G.R. No. 187854

10. **Employer⁴** – person acting in the interest of the company or an establishment, directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as employer.
11. **Employment Arrangement⁵** – agreement or arrangement where one is permitted or suffered to work pursuant to an employer-employee relationship.
12. **Fraudulent Application** – an application which contains untruthful statement or false information that has negative effect on the evaluation of the AEP application.
13. **Grave Misconduct** – serious misconduct relating to the performance of the employee's duties, showing that the employee has become unfit to continue working for the employer, and must have been performed with wrongful intent.
14. **Labor Market Test (LMT)** – the mechanism to determine the non-availability of a Filipino citizen who is competent, able, and willing at the time of application to perform the services for which the foreign national is desired.
15. **Letter of Acknowledgement (LOA)⁶** – letter acknowledging the authorized representative(s) of an accredited or registered foreign principal/employer who may from time to time come to the Philippines to participate in recruitment activities within the registered business address or acknowledged additional office(s) of an agency.
16. **Pre-Arranged Employment Visa or 9(G) visa⁷**– a visa issued to foreign nationals who are proceeding to the Philippines to engage in any lawful occupation, whether for wages or other forms of compensation – also referred to as 9(G) visa or working visa.
17. **Quad Media** – four (4) identified platforms in which information could be disseminated, consisting of print (i.e. newspaper, magazine), broadcast (i.e. media broadcast, cell broadcast), support (i.e. conferences, formal and informal communications), and social media (i.e. websites, social networks) other than the mandatory forms of media for the conduct of LMT.
18. **Refugee⁸** – a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him or herself of the protection of that country, or to return there, for fear of persecution.

⁴Presidential Decree No. 422 "Labor Code of the Philippines" Book Five Labor Relations Title 1 Chapter 2

⁵ DOLE-DOJ-BI-BIR Joint Guidelines No. 1, Series of 2019

⁶ POEA MC No. 11-A Series of 2004

⁷In relation to Section 9(g) of Commonwealth Act No. 613 or the Philippine Immigration Act of 1940

⁸ As defined by the United Nation High Commissioner for Refugees (UNHCR) and based from the 1951 Convention and 1967 Protocol Relating to the Status of Refugees

19. **Related Company**⁹ – company distinct from the original employer or another company which is either (a) its holding company, (b) its subsidiary, or (c) a subsidiary of its holding company.
20. **Secondment Agreement** – a document specifying an arrangement for the temporary assignment of an employee to another part of their own organization, or a different employer within the same organization.
21. **Special Recruitment Authority (SRA)** – an authority granted by the Philippine Overseas Employment Administration (POEA) to an individual to conduct recruitment outside the principal's registered business address as approved by the POEA.
22. **Special Temporary Permit (STP)** – a permit issued by the Professional Regulation Commission (PRC) to a foreign national to engage in the practice of a regulated profession in the Philippines;
23. **Stateless Person**¹⁰ – a person who is not considered as a national by any state under the operation of its law.
24. **Temporary Visitor's Visa (TVV) or 9(A) visa**¹¹ – a visa issued to foreign nationals traveling to the Philippines for purposes of pleasure, short-term business, and/or health only and not valid for employment purposes – also referred to as 9(A) or tourist visa.

Section 2. Coverage. – All foreign nationals who intend to engage in gainful employment in the Philippines shall apply for an AEP.

As used in this Rules, gainful employment shall refer to a state or condition that creates an employer-employee relationship between the Philippine-based employer and the foreign national where the former has the power to hire or dismiss the foreign national from employment, pays the salaries or wages thereof and has authority to control the performance or conduct of the tasks and duties.

Section 3. Requirements and Processing of Application for AEP. – All applications for AEP shall be filed at the DOLE Regional Office (DOLE-RO) concerned, within ten (10) working days from date of signing of the contract or prior to the commencement of employment.

Employers intending to hire foreign nationals shall secure all relevant permits and authorities prior to applying for AEP.

The employer, foreign national, an authorized representative, and/or accredited agents shall submit the complete documentary requirements as follows:

⁹ SEC MC No. 16 Series of 2002

¹⁰ 1954 United Nations Convention Relating to the Status of Stateless Persons

¹¹In relation to Section 9(a) of Commonwealth Act No. 613 or the Philippine Immigration Act of 1940

- a. Application form duly accomplished indicating true and material information;

The applicant shall immediately notify in writing the DOLE-RO concerned of any amendments or addition in the material information to be indicated in the AEP card. Otherwise, a replacement of the issued AEP card must be secured reflecting the amended information.

- b. The expiring AEP card in case of renewal;
- c. Photocopy of Passport bio-page with valid visa, and appropriate visa in case of renewal;
- d. Photocopy of BIR form no. 1904 or 1902 duly received by the Bureau of Internal Revenue (BIR) revenue district office indicating the Taxpayer Identification Number (TIN) of the foreign national or a certification from the BIR with a list of foreign nationals opposite each with the TIN issued, or a copy of e-registration;
- e. Original copy of duly notarized appointment or contract of employment signed over printed name by the foreign national and the employer, indicating the duties and responsibilities, salary, and other benefits of the former;
- f. CTC of valid business/Mayor's permit of the Philippine-based company or enterprise or CTC of the Certificate of Registration from the Economic Zone Authorities where the company is located and operating, unless otherwise provided in the charter;
- g. CTC of license from the Philippine Construction Accreditation Board (PCAB) or, the Certificate of Registration issued by DOLE for contracting and subcontracting arrangements, whichever is applicable, in case of construction companies;
- h. CTC of the Certificate of Business Name Registration together with the Application form duly received by the Department of Trade and Industry (DTI); in case of sole proprietorship, or

CTC of the Certificate of Registration and Articles of Incorporation and By-Laws and updated General Information Sheet (GIS), issued by the Securities and Exchange Commission (SEC). In case of any amendment to Articles of Incorporation and By-Laws of a corporation, CTC of the Amended Articles of Incorporation and By-Laws issued by SEC, in case of a corporation;
- i. CTC of the Philippine Offshore Gaming Operations (POGO) license, accreditation, or appointment issued by Philippine Amusement and Gaming Corporation (PAGCOR), and any other authorized freeport or economic zones established by a charter, in case of online gaming companies;
- j. Proof of publication of the job vacancy/ies in a newspaper of general circulation, in accordance with Section 5 of this Department Order, together with a duly

notarized affidavit stating no applications were received or no Filipino applicant was considered for the position; and

- k. Other required relevant permits or authorities as follows:
- i. Special Temporary Permit (STP) issued, or proof of application received, by the PRC in case of practice of a regulated profession;
 - ii. Authority to Employ Alien (AEA) issued by the DOJ, or proof of application in case the employer is covered by the Anti-Dummy Law¹²; and
 - iii. Authority to Hire Foreign National (AHFN) issued by DENR, or proof of application in case of mining.

Applications with incomplete requirements shall not be accepted or received and processed by the DOLE-ROs.

Section 4. Fees. – Upon filing, the applicant shall pay a fee of Ten Thousand Pesos (PHP 10,000.00) for an AEP with a validity of one (1) year inclusive of publication fee of Four Thousand Pesos (Php 4,000.00). In case the period of employment is more than one (1) year, an additional Five Thousand Pesos (PHP 5,000.00) shall be charged for every additional year or a fraction thereof.

In case of renewal, the applicant shall pay a fee of Five Thousand Pesos (PHP 5,000.00) for each year of validity or fraction thereof.

A fee of Three Thousand Pesos (PHP 3,000.00) shall be charged for the replacement of AEP card due to loss, change in information, or additional position. In case of loss, request for replacement must be supported by a duly notarized affidavit and police report.

A fee of Two Thousand Pesos (PHP 2,000.00) shall be collected per issuance of Certificate of Exemption or Certificate of Exclusion.

All fees shall be covered by an official receipt issued by the DOLE-RO and are non-refundable.

Section 5. Labor Market Test (LMT) – at least fifteen (15) calendar days prior to the application for AEP, the employer shall cause the publication of the job vacancy being applied for by the foreign national in a newspaper of general circulation¹³.

The DOLE-RO shall conduct LMT on all new applications for AEP and shall cause its publication in a newspaper of general circulation¹⁴ within two (2) working days from receipt of application.

¹² Commonwealth Act No. 108, as amended by Commonwealth Act No. 421, Republic Act Nos. 134 and 6084, and Presidential Decree No. 715.

¹³ *Raoul S.V. Bonnevie and Honesto V. Bonnevie, vs. The Honorable Court of Appeals and The Philippine Bank of Commerce. October 24, 1983, G.R. No. L-49101*

¹⁴ *Ibid.*

The publication shall contain the following:

- a. Name of the foreign national;
- b. Position, job description, and qualifications;
- c. Salary range and other benefits, if there are any;
- d. Employer's name and address; and
- e. Notice that any person in the Philippines, who is competent, able, and willing at the time of application, to perform the services for which the foreign national is desired, may file an objection at the DOLE-RO within thirty (30) days after publication.

The DOLE-ROs shall also publish and post in their website new AEP applications and have the same posted in the Public Employment Service Office (PESO) job boards for a period of thirty (30) days.

The LMT shall also be conducted by the DOLE-RO in cases where a foreign national is assigned an additional position during the validity of AEP. An application, together with a new contract of employment, must be filed with the DOLE-RO within fifteen (15) working days from date of appointment for publication of the additional position.

The concerned DOLE-RO may utilize other forms of quad media as an additional platform, to enhance the LMT, subject to the provisions of the Data Privacy Act of 2012 (RA 10173).

The DOLE-RO may also refer to the DOLE's PhilJobNet and PESO Employment Information System (PEIS), the PRC's registry of professionals, and the Technical Education and Skills Development Authority's (TESDA) registry of certified workers to establish the availability or non-availability of able and qualified Filipino workers.

Section 6. Processing period. – Applications for new AEP shall be processed, and issued within five (5) working days after publication.

Applications for renewal of AEP shall be processed, and issued within five (5) working days after receipt of complete documentary requirements and payment of required fees, and fines, if any.

Section 7. Verification. – The DOLE-RO may conduct a verification to establish the company's existence and legitimacy of the application based on the documents submitted, as deemed necessary.

Section 8. Validity and Issuance of AEP; Effects of Transfer and Change of Position. – At any given time during its validity, only one (1) AEP shall be issued to a foreign national. The AEP shall be valid for the position and the company for which it was issued for a period of one (1) year, unless granted a longer period vis-a-vis the

employment duration, as stated in the employment contract or other modes of engagement, but in no case shall exceed three (3) years.

The AEP card shall be released by the DOLE-RO only to the foreign national, employer and/or authorized representative, within ten (10) working days from the date of notification of its availability; except, when requested by the applicant, employer or authorized representative, the DOLE-RO may send the AEP through courier service providers which shall be on the account of the applicant.

In both cases, failure to claim the AEP card within the prescribed period shall be a ground for its revocation.

The AEP shall remain valid until it expires, for the same position, despite the transfer of the company to another location.

Likewise, the existing AEP shall remain valid in case the foreign national has been transferred or subsequently assigned to related companies in another region. However, publication shall be required upon renewal of the AEP with the concerned DOLE-RO in accordance with Section 10 of this Rules. The employer shall notify the concerned DOLE-RO of any transfer or reassignment of foreign national within ten (10) working days.

In case of any change in the foreign national's position or employer, he/she shall be required to file a new application for AEP and surrender the previously issued AEP card for nullification.

Section 9. Renewal of AEP. – An application for renewal of an AEP may be filed as early as sixty (60) days before its expiration. In case the foreign national needs to leave the country or any other similar circumstances that will hinder the filling of renewal within the prescribed period, the application may be filed earlier.

An application for renewal of an AEP where an election or appointment is required for the position, the procedure shall be as follows:

- a. If the foreign national was elected or appointed for the same position before his/her AEP expires, the application for renewal of AEP must be filed before its expiration together with a duly notarized Board Secretary's Certification stating such fact;
- b. If the foreign national still holds the same position or office in a hold-over capacity, an application for renewal of AEP shall be filed before its expiration supported by a duly notarized Board Resolution for that purpose. The DOLE-RO shall issue an AEP with one (1) year validity period to said foreign national.

If thereafter, the subject foreign national has been elected and qualified for the same position, the employer shall submit within thirty (30) days after the date of election/appointment a duly notarized Board Secretary's Certification stating such fact to the concerned DOLE-RO.

- c. If the foreign national was elected/appointed for a different position, an application for a new AEP must be filed within (15) working days after the date of appointment or election, together with a duly notarized Board Secretary's Certification.

In the case of the fifth paragraph of Section 8 of this Rules, an application for renewal of AEP of the subject foreign national shall be filed in the DOLE-RO having jurisdiction of the intended place of work.

In all cases of renewal, the employer or foreign national shall surrender the expiring AEP card to the concerned DOLE-RO for perforation to avoid tampering and illegal use.

In addition to the requirements stated in Section 8 of this Rules, applications for renewal of an AEP without an appropriate visa shall be treated as a new application after the expiration of the existing AEP.

Section 10. Expired AEP/Without Valid AEP/Fraudulent AEP. - Foreign nationals found to be working with expired AEP or had been working without the necessary AEP under the rules and employers found to be employing such, shall be barred from filing AEP application for five (5) years, plus payment of penalties in accordance to Section 23 of this Rules and Regulations.

Employers and/or foreign nationals, who are found to possess fraudulent AEP, shall likewise be barred indefinitely from applying for or being granted an AEP, plus payment of penalties in accordance to Section 23 of this Rules and Regulations.

Section 11. Denial of application for new or renewal of AEP. – The DOLE-RO, after due process and evaluation/assessment in accordance with Section 14 of this Rules, may issue an Order denying an application for new or renewal of an AEP based on any of the following grounds:

- a. misrepresentation of facts;
- b. submission of falsified, tampered or fraudulent documents;
- c. submission of a visa not in accordance with applicable rules and regulations;
- d. meritorious objection filed by a Filipino citizen who is competent, able and willing to do the job intended for or being performed by the foreign national;
- e. grave misconduct in dealing with or ill treatment of workers; and
- f. verified information against the employment of the foreign national.

Section 12. Cancellation of AEP. - The DOLE-RO, upon request of the employer, may issue an Order for Cancellation of an AEP of a foreign national for termination of

the latter's employment or term of office in a hold-over capacity before the expiration of the employment contract or validity period of AEP.

A foreign national may also request for the cancellation of his/her existing AEP provided a clearance or certification is issued by his/her original employer.

The DOLE-RO shall notify and furnish the employer a copy of the order of cancellation, directing the employer to surrender the AEP card to the issuing DOLE-RO.

Section 13. Revocation of AEP. – The DOLE-RO may, *motu proprio* or upon petition/complaint, issue an Order revoking an AEP after due process and evaluation/assessment in accordance with Section 14 of this Rules, based on any of the following grounds:

- a. any act of misrepresentation for purposes of securing an AEP, including but not limited to fraudulent application of facts, falsification or tampering of documents, and similar circumstances;
- b. meritorious objection filed by a Filipino citizen who is competent, able and willing to do the job intended for or being performed by the foreign national;
- c. foreign national has been convicted or found guilty of a criminal offense, or is a fugitive from justice based on a verified information;
- d. verified information against the employment of the foreign national;
- e. verified information on grave misconduct in dealing with or ill treatment of workers filed with the DOLE-RO against the foreign national;
- f. violation and non-compliance of other pertinent provisions of this rules and regulations, the Labor Code, as amended and other relevant guidelines for issuance of AEP; and
- g. failure to claim the AEP card within ten (10) working days from date of notification of availability.

A petition/complaint, stating the grounds relied upon under the Rules, shall be filed before the DOLE-RO which issued the AEP.

Section 14. Procedure in Resolving Denial or Revocation - In relation to Sections 11 and 13, the DOLE-RO shall notify, within ten (10) days from filing of complaint/petition, the employer and the foreign national on the report of evaluation/assessment on a possible ground for denial or revocation of AEP.

It shall likewise direct the parties to submit verified explanation within ten (10) days from the receipt of said notice, with supporting documents, and to attend the scheduled clarificatory conferences before the concerned DOLE-RO.

The case shall be submitted for resolution as follows:

- a. Failure of the parties to attend the scheduled conferences despite due notice;
- b. Upon receipt of verified explanation;
- c. Non-submission of verified explanation within the prescribed period; or
- d. Upon motion/manifestation by any of the parties.

The DOLE-RO shall issue an order denying or revoking the AEP within forty-five (45) days after the case has been submitted for decision/resolution, and which shall contain the following:

- a. Facts of the case;
- b. Issue/s involved;
- c. Applicable laws or rules;
- d. Conclusions and reasons therefor;
- e. Specific sanction, remedy or relief granted; and
- f. Directive to the employer to surrender the revoked AEP card to the issuing DOLE-RO.

The aggrieved party may only file a Motion for Reconsideration once with the DOLE-RO within ten (10) days from the date of receipt of the order.

Section 15. Appeal. The foreign national or employer may file an appeal to the DOLE-RO after a Motion for Reconsideration with the order issued by the DOLE-RO has been denied.

- a. **Jurisdiction and Period to Appeal.** An appeal may be filed with the DOLE-RO within ten (10) days from receipt of a copy of the order of the DOLE-RO.

An appeal filed beyond the reglementary period shall not be accepted by the DOLE-RO. As such, the order of the DOLE-RO shall be deemed final and executory.

- b. **Requirements of Appeal.** The appealing party shall file a notice of appeal and an appeal memorandum with the concerned DOLE-RO. The appeal memorandum must be verified and shall clearly state the errors of law and/or fact in the decision appealed from.
- c. **Transmittal of Records of the Case on Appeal.** Within five (5) days from receipt of the appeal timely filed, the concerned DOLE-RO shall transmit the entire records of the case to the office of the Secretary.

- d. Effect of Filing an Appeal.** The order of the DOLE-RO shall be stayed during the pendency of appeal except:
- i. When the basis for denial or revocation of AEP are any of the following:
 - a. Misrepresentation and/or fraudulent application of facts,
 - b. Submission of falsified or tampered documents or similar circumstances,
 - c. Conviction of a criminal offense, foreign national is a fugitive from justice, or
 - d. Final finding on grave misconduct in dealing with or ill treatment of workers;
 - ii. When the basis for barring the employer's, employer and foreign national's representatives, and/or agents in filing an AEP application is:
 - a. Fraudulent application of AEP,
 - b. Working with an expired AEP, or
 - c. Working without an AEP.
- e. Decision of the DOLE Secretary.** The DOLE Secretary shall render his/her decision within sixty (60) days from the receipt of transmittal of the entire records of the case.

The decision of the DOLE Secretary SHALL be final and executory unless a Motion for Reconsideration is filed within ten (10) days from the receipt of the copy of the Order. The decision on the Motion for Reconsideration shall be final and executory. No second Motion for Reconsideration shall be allowed.

Section 16. Effect of Denial or Revocation of AEP. – A foreign national whose AEP has been revoked based on paragraphs (c) and (e) of Section 13 of this Rules is disqualified to re-apply for a period of ten (10) years.

Correspondingly, a foreign national shall be disqualified to re-apply for a period of five (5) years if the AEP application has been denied on any grounds provided under paragraphs (a), (b), (c), (e) or (f) of Section 11, or the AEP is revoked based on paragraphs (a), (d), or (f) of Section 13 of this Rules.

Section 17. Filing of fraudulent applications of AEP by the employer, authorized representative, and/or Accredited Agents – The employer, authorized representative, and/or accredited agents acting in behalf of the applicant found to have

filed fraudulent application for AEP for three (3) counts shall be barred from filing application for a period of five (5) years after due process.

Employers, authorized representatives, and/or accredited agents who found to have filed fraudulent applications shall be notified by the DOLE-RO for every count thereof directing them to explain, within ten (10) working days, why they should not be disqualified from further filing of any applications for AEP.

Counts of violation of this section shall depend on the number of fraudulent applications filed, regardless if the same were individually or simultaneously filed.

The DOLE-RO, from the receipt of the explanation or expiration of the ten (10) working days provided to submit the same, shall issue an order barring employers, foreign nationals, authorized representatives, and/or accredited agents from filing of AEP application for a period of five (5) years on the basis of commission of three (3) counts of fraudulent application.

Section 18. Exemption. – The following categories of foreign nationals are covered by Article 40 of the Labor Code, but exempted from securing an employment permit under the existing laws or guidelines:

- a. Dependent spouse of any member of the Diplomatic corps, provided there is an existing reciprocity agreement and/or exchange of notes between the Philippine Government and their respective countries of origin;
- b. Accredited officials and personnel of international organizations of which the Philippine Government has entered into an agreement with, and their dependent spouse desiring to work in the Philippines;
- c. Foreign nationals who are officers, staff, and employees working in the Embassy by reason of extra-territoriality principle, which is one of the generally accepted principles in International Law;
- d. Foreign nationals who are officers and staff of Peacekeeping or International Organizations, either deployed in the Philippines or invited by Non-Governmental Organizations as accredited, endorsed, or certified by the appropriate government agencies, provided they will not engage in any gainful employment in the Philippines;
- e. Foreign nationals who come to the Philippines to teach, present and/or conduct research studies in universities and colleges as visiting, exchange or adjunct professors under formal agreements between the universities or colleges in the Philippines and foreign universities or colleges; or between the Philippine government and foreign government, subject to the rules of reciprocity;

- f. Permanent resident foreign nationals and probationary or temporary resident visa holders;¹⁵
- g. Refugees and Stateless Persons recognized by the Department of Justice (DOJ) pursuant to Article 17 of the 1951 and 1954 UN Conventions Relating to Status of Refugees and Stateless Persons, respectively; and
- h. All foreign nationals granted exemption by law.

Section 19. Requirements and Processing of Certificate of Exemption. – All foreign nationals exempted from securing an AEP may request for a Certificate of Exemption from the DOLE-RO concerned. the DOLE-RO shall issue said Certificate within three (3) working days after receipt of complete documentary requirements and payment of fees.

The certificate shall be issued to an applicant upon compliance with the following documentary requirements:

- a. Letter request addressed to the DOLE Regional Director;
- b. Photocopy of the bio page of his/her valid Passport (except stateless persons); and
- c. Photocopy of his/her valid visa and the corresponding Alien Certificate of Registration (ACR) I-Card, if applicable.

In addition to the above, the following documents or proof of exemption shall be presented by the following categories of foreign nationals, to wit:

- d. Endorsement/authority to undertake employment issued by DFA – for dependent spouse of members of the Diplomatic corps;
- e. Copy of the formal agreement between the involved academic institution or governments - for foreign nationals who come to the Philippines to teach, present and/or conduct research studies in Universities and Colleges as visiting, exchange or adjunct professors;
- f. Certificate of Recognition issued by DOJ – for refugees and stateless persons; and
- g. Copy of the law granting exemption - all other exempted foreign nationals.

Section 20. Exclusion. – The following categories of foreign nationals providing/supplying services in the country but their employers are located abroad or those without employer-employee relationship with the Philippine-based entity, are excluded from securing an employment permit:

¹⁵ Section 13 of the Philippine Immigration Act of 1940 (CA 613, as amended) and Section 3 of the Alien Social Integration Act of 1995 (RA 7919)

- a. Members of the governing board with voting rights only and do not intervene in the management of the corporation or in the day to day operation of the enterprise;
- b. President and Treasurer, who are part-owner/s of the company;
- c. Intra-corporate transferee employed by the foreign service supplier for at least one (1) year continuous employment prior to deployment to a branch, subsidiary, affiliate or representative office in the Philippines as a manager, an executive or a specialist, as defined below in accordance with Trade Agreements:
 - i. Executive: a natural person within the organization who primarily directs the management of the organization and exercises wide latitude in decision making and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the business; an executive would not directly perform tasks related to the actual provision of the service or services of the organization;
 - ii. Manager: a natural person within the organization who primarily directs the organization/department/subdivision and exercises supervisory and control functions over other supervisory, managerial or professional staff; does not include first line supervisors unless employees supervised are professionals; does not include employees who primarily perform tasks necessary for the provision of the service; or
 - iii. Specialist: a natural person within the organization who possesses knowledge at an advanced level of expertise essential to the establishment/provision of the service and/or possesses proprietary knowledge of the organization's service, research equipment, techniques or management; may include, but is not limited to, members of a licensed profession.
- d. Contractual service supplier who is a manager, an executive, or a specialist employed by a foreign service supplier which has no commercial presence in the Philippines, and:
 - i. enters the Philippines temporarily to supply a service pursuant to a contract between his/her employer and a service consumer in the Philippines;
 - ii. possesses the appropriate educational and professional qualifications; and
 - iii. employed by the foreign service supplier for at least one (1) year prior to the supply of service in the Philippines.

- e. Authorized representatives of accredited/registered foreign principal/employers, who participate in all recruitment activities of its duly licensed recruitment/manning agency by the Philippine Overseas Employment Administration (POEA) within or outside of the latter's registered address or acknowledged additional office in the Philippines.

Section 21. Requirements and Processing of Certificate of Exclusion. – All foreign nationals excluded from AEP shall secure a Certificate of Exclusion from the DOLE-RO concerned. Further, the DOLE-RO shall issue the Certificate within three (3) working days after receipt of complete documentary requirements and payment of fees.

The Certificate shall be issued to an applicant upon compliance with the following documentary requirements:

- a. Letter request addressed to the DOLE Regional Director;
- b. Certified True Copy (CTC) of either the valid business/Mayor's permit of the Philippine-based company or enterprise or Certificate of Registration from PEZA or Ecozone Authority in case of locators in economic zones;
- c. Photocopy of passport (bio page) with valid visa; and

In addition to the above, the following categories of foreign nationals shall submit the corresponding documents, to wit:

For the Members of the governing board with voting rights only and do not intervene in the management of the corporation or in the day to day operation of the enterprise (excluding those listed in the Foreign Investment Negative List):

- d.1. CTC of an updated General Information Sheet (GIS) showing the name and position of the foreign national; and
- d.2. Duly notarized Secretary's Certificate that the requesting foreign national is a member of the governing board with voting rights only, and does not in any manner intervene in the management or operation of the corporation/enterprise. Further, it shall also indicate that said foreign national will hold such office for a specific term in accordance with the Revised Corporation Code 2019¹⁶;

For President and Treasurer, who are part-owner/s of the company (excluding those listed in the Foreign Investment Negative List):

- e.1. CTC of an updated GIS showing the name and position of the foreign national; and

¹⁶ Republic Act No. 11232

- e.2. Duly Notarized Secretary's Certificate that the requesting foreign national is the elected President/Treasurer and part-owner of the company. Further, it shall also indicate the specific term of office;

For Intra-corporate Transferee/s:

- f.1. Duly notarized Contract/Certificate of Employment from the origin company including proof of salary; and
- f.2. Duly notarized Secondment Agreement;

For Contractual Service Supplier:

- g.1. Authenticated Contract of Employment from the Origin company including proof of salary; and
- g.2. Duly notarized service contract agreement between the Philippine based company and the foreign company;

For representatives of accredited/registered foreign principal/employers, who participate in all recruitment activities of its duly licensed recruitment/manning agency by the POEA within or outside of the latter's registered address or acknowledged additional office in the Philippines:

- h.1. CTC of Special Recruitment Authority (SRA); and
- h.2. Letter of Acknowledgment.

Section 22. Issuance and Validity of Certificates. – The Certificate of Exclusion or Exemption may either be claimed by the applicant or authorized representative, provided that the Certificate of Exemption may be claimed by an authorized person with a duly notarized SPA executed by the applicant.

DOLE-ROs, upon request of the applicant, may send the Certificates through courier providers which shall be on the account of the applicant.

The Certificate of Exemption shall be valid from the date of issuance up to the end date of the deployment, while the Certificate of Exclusion shall be valid from the date of issuance up to the end date of the contract, appointment, or election.

Section 23. Prohibited Acts and Penalties. The DOLE-RO shall impose a fine of Ten Thousand Pesos (P 10,000.00) to foreign nationals and Ten Thousand Pesos (P 10,000.00) to employers for every year or a fraction thereof for each count of violation of the following acts:

- a. Entering into an employment contract with an invalid and/or expired AEP;
- b. Employing/hiring foreign nationals without a valid AEP; or possessing fraudulent or expired AEP;

- c. Application for AEP filed beyond ten (10) working days after the date of signing of contract or after commencement of employment; and
- d. Other circumstances analogous to the foregoing.

Any violations of this Rules, the Labor Code, as amended, and other relevant guidelines, issuances, circulars, governing the employment of foreign nationals shall likewise be penalized accordingly.

Section 24. Applicability of Rules of Court. The Revised Rules of Court of the Philippines shall, whenever applicable, supplement these Rules in similar or analogous character in proceedings brought before the DOLE.

Section 25. Duties of the Employer. – The employer shall submit a report on the following to the concerned DOLE-RO:

- a. Submit a quarterly report or an updated list of foreign nationals employed within thirty (30) days from the reference period; and
- b. Change of employer's information such as but not limited to name, address, contact number or details.

Section 26. Accreditation. – The DOLE shall adopt a policy on the accreditation of agents or representatives authorized to represent, to act for and on behalf of a Philippine-based employer and/or foreign national for the issuance of AEP by DOLE-ROs.

The DOLE shall also create a database of accredited agents for monitoring and regulation thereof.

Section 27. Manual on Rules and Regulations on AEP Issuance. – The Bureau of Local Employment (BLE), DOLE Legal Service (DOLE-LS) and Bureau of Working Conditions (BWC) shall develop the following:

- a. Manual on the Rules and Regulations governing AEP issuance; and
- b. Manual on the disposition of AEP-related cases.

Section 28. Monitoring and Evaluation. – The DOLE-RO shall submit a monthly report on the issuance, renewal, denial, cancellation, and revocation of AEP to BLE within thirty (30) days from the reference period, except otherwise provided.

The DOLE, through the BLE, shall notify any information on foreign nationals obtained from the application of AEP that may be subject to the appropriate action of concerned government agencies.

Section 29. Online Alien Employment Permit Management System. – The DOLE shall develop and establish an online database system for AEP.

Section 30. Repealing Clause. – All guidelines, rules and regulations, procedures and agreements inconsistent herewith are hereby repealed or modified accordingly.

Section 31. Separability Clause. – In case any provision of this Rules and Regulations shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 32. Survivability Clause. – In such case, supplemental rules and regulations may be issued by the Secretary of Labor and Employment for clarity, guidance, and amendments. Rules herein stated shall survive, unless otherwise partially or utterly repealed or amended.

Section 33. Effectivity Clause. – This Rules and Regulations shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Date: 06 JAN 2021


SILVESTRE H. BELLO III
Secretary

Dept. of Labor & Employment
Office of the Secretary

