



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



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NEW RULES AND REGULATIONS ON THE EMPLOYMENT OF FOREIGN NATIONALS IN THE PHILIPPINES

This Department Order is being issued pursuant to Articles 5, 40, 41 and 128 of Presidential Decree No. 442 or the Labor Code of the Philippines, as amended, and Section 17(5), Chapter 4, Title VII of the Administrative Code of 1987; and in relation to Section 8 (2) of Republic Act (R.A.) No. 11647 or the Foreign Investment Act of 1991, as amended; Section 25 of R.A. No. 11659 or the Public Service Act, as amended; R.A. No. 7916 or the Special Economic Zone Act of 1995, as amended; and their corresponding implementing rules and regulations, to regulate the employment of foreign nationals in the Philippines. This Order may also be referred to hereinafter as these Rules.

RULE I GENERAL PROVISIONS

Section 1. Policy Declaration. **A.** It is the policy of the State to promote full employment of Filipino workers and the preferential use of Filipino labor. For this purpose, the State shall:

- a) Ensure that due preference is given to Filipino citizens in accessing employment opportunities and engaging in the practice of professions and occupations in the Philippines by regulating the employment of foreign nationals in accordance with the 1987 Constitution and the conditions prescribed by law and these Rules; and
 - b) Develop the competencies of Filipino workers in companies or enterprises employing foreign nationals through, among others, the effective transfer of skills, knowledge and technology from the latter to the former, consistent with the needs and requirements of national development.
- B.** To implement this policy, the Department of Labor and Employment (DOLE) shall:
- a) Establish and maintain a registration and employment or work permit system for every employer in the Philippines seeking to employ or is employing a foreign national who is not a resident of the country;

- b) Ensure that the employment of a foreign national shall be subject to the determination of non-availability of a Filipino citizen who is competent, able, and willing to perform the services for which the foreign national is desired; that the foreign national has the qualifications necessary to perform such services; and his or her such employment shall serve the needs of sectors and industries particularly those in priority areas of national development;
- c) Ensure that the issuance of an alien employment permit shall be strictly in accordance with the principles of non-discrimination in employment and occupation, and that all applications for such permit shall be evaluated solely on the basis of objective factors, inherent requirements and *bona fide* occupational qualifications for the position or job for which the foreign national is sought to be hired; and
- d) Uphold the principles and rights and comply with the obligations of the Philippines arising from international instruments, bilateral agreements, mutual recognition agreements, and reciprocity clauses in the employment of foreign nationals, and ensure alignment of policies with global and regional frameworks governing the movement of natural persons such as the General Agreement on Trade in Services (GATS) and the ASEAN Framework Agreement on Services (AFAS).

Section 2. Definition of Terms. The following shall mean and be referred to as:

- a) **Alien Employment Permit (AEP)** is a permit issued by the DOLE to a foreign national who, consistent with national development objectives, has the capacity and qualifications to be engaged in gainful employment by an employer in the Philippines in a position which no Filipino national is competent, able and willing to perform at the time the application for AEP is filed.
- b) **Applicant** refers to an employer in the Philippines who intends to hire a foreign national and who files an application for an AEP for this purpose, or a foreign national who files an application for a Certificate of Exemption or Exclusion in accordance with these Rules. The term includes the foreign national in whose name the application is filed.
- c) **Authority to Employ Alien (AEA)** is a permit issued by the Department of Justice (DOJ) to an employer engaged wholly or partially in a nationalized industry as defined under the Anti-Dummy Law.
- d) **Authority to Hire Foreign National (AHFN)** is a permit issued by the Department of Environment and Natural Resources (DENR) to an employer engaged in mining operations to employ a foreign national in compliance with sector-specific regulatory requirements.
- e) **Authorized Representative** is any individual duly authorized to legally transact business with the DOLE on behalf of the employer or foreign

national applying for AEP, Certificate of Exemption or Exclusion, and related transactions.

- f) **Certificate of Exclusion** is a document issued to a category of foreign nationals as enumerated under Section 3, Rule V of these Rules.
- g) **Certificate of Exemption** is a document issued to a category of foreign nationals as enumerated under Section 1, Rule V of these Rules.
- h) **Economic Needs Test (ENT)** is a process to evaluate and determine whether the employment of a foreign national is necessary to fill a gap, shortage or need in the local labor market, particularly in relation to the nature of functions, level of specialization and technological knowledge, and industry requirements of employers which are granted fiscal incentives, are engaged in priority or strategic areas of investments or operate public utilities under the Public Service Act, as amended.
- i) **Employer** refers to any individual or juridical entity desiring to engage, is engaging, or has engaged, directly or indirectly, the services of a foreign national in the context of an employer-employee relationship. It includes any person acting in the interest of the employer.
- j) **Fiscal Incentives** include subsidies, tax reliefs, and/or preferential tax treatment granted by law to promote and encourage investments in favor of eligible registered enterprises operating in priority sectors as determined by the competent authority.
- k) **Foreign enterprises** refer to enterprises registered pursuant to the Foreign Investment Act, as amended, the Public Service Act, as amended, and other relevant laws.
- l) **Labor Market Test (LMT)** is the process to determine the non-availability of a Filipino citizen who is competent, able and willing at the time the application for AEP is filed to perform the services for which the foreign national is desired.
- m) **Pre-Arranged Employment Visa or 9(G) or Working Visa** is one issued by the Bureau of Immigration (BI) or Department of Foreign Affairs (DFA) to a foreign national entering the Philippines to engage in any lawful occupation or profession, whether for wages or other forms of compensation.
- n) **Public Utility** refers to a public service regulated by the Public Service Act, as amended, that operates, manages or controls for public use the distribution or transmission of electricity; petroleum and petroleum products pipeline transmission systems; water pipeline distribution systems; wastewater and sewerage pipeline systems; seaports; and public utility vehicles. It includes all concessionaires, joint ventures and other similar entities that wholly operate, manage, or control for public use the foregoing sectors.

- o) **Refugee** is a person who, owing to a well-founded fear of being persecuted by reason of race, religion, nationality, or membership in or affiliation with any particular social group or political opinion, is outside the country of his or her nationality and is unable, owing to such fear, to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her formal habitual residence, is unable or unwilling, owing to such fear, to return to it.
- p) **Related company** is a company distinct from the employer that originally applied for an AEP that is either the latter's holding company, its subsidiary, or a subsidiary of its holding company.
- q) **Secondment Agreement** is a document temporarily deploying an employee of a foreign-based employer to its branch, subsidiary, affiliate or representative office in the Philippines.
- r) **Skills Development Program (SDP)** refers to a training plan of an employer which is granted fiscal incentives by the Government, is engaged in priority or strategic areas of investments, or is operating a public utility designed to transfer technology or skills possessed by a foreign national employed by such employer to at least two (2) regular rank-and-file Filipino employees per foreign national employed therein through learning sessions or any similar training modalities.
- s) **Special Temporary Permit (STP)** is 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.
- t) **Strategic Investments** are those which are determined by competent authority to be aligned with the Philippine Development Plan or any other similar national development plan that can be characterized by their significant capital infusion to the economy; positive economic or environmental impact; contribution to the country's balance of payments; expertise in complex technical processes and engineering designs; and capacity to improve the country's infrastructure capabilities.
- u) **Stateless Person** is a person who is not considered as a national by any State under the operation of its law.
- v) **Understudy Training Program (UTP)** refers to a training plan of an employer which is granted fiscal incentives by the Government, or is engaged in priority or strategic areas of investments, or is operating a public utility designed to transfer technology or skills possessed by a foreign national to at least two (2) understudies who are regular employees of the employer and who are next-in-rank to such foreign national.

Section 3. Coverage. - These Rules shall apply to all foreign nationals who intend to engage in gainful employment in the Philippines, and to all employers in the Philippines who desire to hire foreign nationals.

Gainful employment means employment in the Philippines within the context of an employer-employee relationship, as determined by Philippine laws.

Except as otherwise exempted or excluded in accordance with these Rules, every employer who intends to employ a foreign national in the Philippines shall first secure an AEP prior to the actual start of the latter's employment.

Unless otherwise inconsistent with these Rules or superseded by subsequent issuance, DOLE Department Order No. 221-A, series of 2022, shall continue to be applied on the engagement of authorized representatives to transact business with the DOLE in connection with applications for AEP and other transactions covered by these Rules.

RULE II

REQUIREMENTS AND PROCEDURES IN APPLYING FOR AEP

Section 1. Precondition to an application; labor market test. Before the filing of an application for an AEP, the employer shall cause the publication of the vacant position to be filled up and the name of the foreign national it intends to hire, in the following manner:

- a) The publication shall be made in –
 - i. A newspaper of general circulation;
 - ii. The PhilJobnet; and
 - iii. The Public Employment Service Office (PESO) or Job Placement Office (JPO) having jurisdiction over the intended place of work.
- b) The publication shall state the employer's intention to employ a foreign national and to apply for an AEP for this purpose. The publication shall include the following:
 - i. Name, address and nature of business of the employer;
 - ii. Specific position to be filled up, job description, and functions to be performed that include the objective factors or requirements of the position;
 - iii. Qualification requirements for the position, including education, experience, professional license, skills certification or specialized training;
 - iv. Location/s and address/es of the workplace/s where the job vacancy is and where the foreign national will regularly perform his or her work;

- v. Name and city of residence of the foreign national in the Philippines in whose favor the AEP is sought to be issued;
 - vi. A statement that the foreign national is able, willing, and qualified to perform the service for which his or her employment is desired;
 - vii. Intended period or duration of employment of the foreign national; and
 - viii. The DOLE Regional Office and its address where the application for an AEP is intended to be filed.
- c) One publication may include more than one position, provided that the information required under paragraph b) ii, iii, iv, v, vi and vii above shall be provided for each position. The publication shall be valid and effective up to a period of forty-five (45) days and can be used only for the position or positions stated and described therein.

Section 2. Exemption from publication. A foreign national intended to be hired to any of the corporate officer positions as identified in the company's Articles of Incorporation, By-laws or General Information Sheet (GIS), and as certified by the corporate secretary shall be exempted from the requirement of publication under the immediately preceding section.

Section 3. Filing of application. The application for AEP shall be filed with the DOLE Regional Office having jurisdiction over the intended place of work of the foreign national not earlier than fifteen (15) calendar days after publication in accordance with Section 1 of this Rule, and within fifteen (15) calendar days from the execution of the contract of employment between the employer and the foreign national or the issuance of an appointment by the former to the latter. In cases where the foreign national shall be assigned to more than one workplace falling under the jurisdiction of different regional offices, the application shall be filed with the DOLE Regional Office having jurisdiction over the primary place of work. The effectivity of the employment contract or appointment shall be conditioned on the issuance of an AEP by DOLE in favor of the foreign national.

An application for AEP may also be filed and processed while the foreign national intended to be hired is still outside the country, provided that no AEP shall be released unless the foreign national has entered the country with the appropriate pre-arranged employment visa or 9(G) or working visa presented to the DOLE Regional Office.

Section 4. Basic application requirements. The applicant shall submit to the DOLE Regional Office the following:

- a) Duly accomplished application signed by the employer and foreign national in the form prescribed and with all material information required by DOLE, including the Employer Registration Number (ERN); the line of business of

the employer and whether it is a business entity granted fiscal incentives, is engaged in strategic investments or operates a public utility; the classification of the position to which the national is intended to be hired, among others.

- b) Photocopy of passport bio-page with appropriate valid visa of the foreign national;
- c) 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 and their respective TINs; or a copy of e-registration;
- d) Original copy of duly notarized or authenticated appointment or contract of employment signed by the foreign national and the employer, indicating the position, scope of work, duties and responsibilities, salary, and other benefits;
- e) Proof of the employer's legal personality and authority to operate or do business, such as a certified true copy 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); or valid Business/Mayor's Permit; or Certificate of Registration from the economic zone authority where the employer is located;
- f) Proof of publication in accordance with Section 1, unless exempted from the requirement under Section 2 of this Rule with a duly notarized affidavit of the responsible officer of the employer stating that no Filipino applied or was found competent, able, and willing for the position; and
- g) Other documentation to verify the qualifications of the foreign national, which may include educational credentials, relevant work experience, professional licenses, skills certifications, or evidence of specialized training.

Section 5. Specific additional requirements for certain applications. As applicable, and in addition to the documentary requirements specified in the immediately preceding section, the application for AEP shall likewise be supported by the relevant licenses, permits, authorities or documents as follows:

- a) Certified true copy 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;
- b) Certified true copy of license, accreditation, or appointment from the Philippine Amusement and Gaming Corporation (PAGCOR) or any other authorized freeport or economic zone, as applicable;

- c) Special Temporary Permit (STP) issued by the Professional Regulation Commission (PRC), or proof of application received by the PRC if the foreign national is to engage in the practice of a regulated profession;
- d) Authority to Employ Alien (AEA) issued by the DOJ, or proof of application received by the DOJ where the employer is covered by the Anti-Dummy Law;
- e) Authority to Hire Foreign National (AHFN) issued by DENR, or proof of application in case of mining; or
- f) Secretary's certification that the foreign national intended to be hired has been or shall be elected or appointed to any of the corporate officer positions referred to in Section 2 of this Rule and as such is exempted from the publication requirement.

Section 6. Receipt of application; payment of fees. Upon receipt of the application for AEP, the DOLE Regional Office shall determine the completeness of the application and supporting documents.

If the application or supporting documents are incomplete, the same shall not be acted upon but shall be immediately returned to the applicant for completion of all requirements.

If the application and supporting documents are complete, the applicant shall pay to the DOLE Regional Office the application fee of Six Thousand Pesos (PHP 6,000.00) for an AEP with a validity period of one year. In case the period of validity applied for is more than one year, an additional Five Thousand Pesos (PHP 5,000.00) shall be charged for every additional year or a fraction thereof.

Section 7. Objections to the application. An objection to an application for AEP may be filed by a person or entity who stands to be adversely affected by the approval of the application. The objection must be in writing and must specify the grounds as to why no employment permit should be issued in the name of the foreign national.

Any objection may be submitted to the DOLE Regional Office where the application is to be filed or has been filed as indicated in the publication within thirty (30) days from the time the vacancy for the position is published.

Section 8. Evaluation and processing of application. In evaluating the application, the DOLE Regional Office shall:

- a) Verify whether or not the publication requirement has been complied with;
- b) Verify the information and declarations in the application and the authenticity and due execution of the supporting documents;

- c) Evaluate the employment contract or appointment and its consistency with the requirements of the vacant position as published;
- d) Consider any objections received whether these are meritorious and were filed on time;
- e) Determine the period of validity of the AEP; and
- f) As deemed necessary, require the personal appearance of the applicant, call for a clarificatory conference, or conduct a verification inspection of the employer's premises and place of work of the foreign national.

Pursuant to the economic needs test, the DOLE Regional Office shall, as appropriate, likewise evaluate and consider the economic implications of allowing the employment of foreign nationals in specific sectors, professions, occupations or industries, particularly taking into account the following:

- a) Shortage or surplus of Filipino workers in the sector, industry, profession, occupation or industry in which the foreign national is intended to be employed based on official statistics or relevant surveys;
- b) Unavailability in the local labor market of the specialized skills, expertise or knowledge required by or are inherent to the position to which the foreign national is intended to be employed, and whether or not these can be met within a short period of time by training local workers; and
- c) The employment of the foreign national is deemed essential for the development, competitiveness or technological advancement of the specific sector, profession, occupation or industry and serves the national economic interest, particularly among employers granted fiscal incentives, engaged in priority investments, or operating public utilities under the Public Service Act, as amended.

The foregoing provision on economic needs test shall be without prejudice to further advisory guidelines that the DOLE may issue after consultation with relevant government agencies such as but not limited to PRC, Technical Education and Skills Development Authority (TESDA), Department of Trade and Industry (DTI), Philippine Economic Zone Authority (PEZA) and Philippine Statistics Authority (PSA).

Section 9. Action on the application; non-transferability and period of validity of AEP. Within fifteen (15) working days from payment of the required fee, the DOLE Regional Office, through the Regional Director, shall act on the application by approving or denying the same.

The DOLE Regional Office shall issue the AEP within one working day from approval of the application. The AEP shall be issued in the name of the foreign national and shall be non-transferable. At any given time, only one AEP may be issued to a

foreign national which shall be used only in respect to the position for which it was issued.

Without prejudice to its earlier cancellation or revocation in accordance with these Rules, the AEP shall be valid for a period of one year, unless a shorter or longer period is specified based on the duration of the employment or activity as stated in the employment contract or other modes of engagement. In no case shall the period of validity of an AEP exceed three (3) years.

Section 10. Denial of application. The DOLE Regional Director, *motu proprio* upon evaluation and assessment of the application in accordance with these Rules, shall issue an order denying the application on any of the following grounds:

- a) Misrepresentation, false statement or fraud in the application or supporting documents;
- b) Ineligibility of the employer or foreign national to apply for an AEP due to a previous and subsisting disqualification;
- c) Non-compliance with the labor market test or the economic needs test or both;
- d) Non-submission or failure to secure the visa, permit or license of concerned regulatory bodies as required by these Rules and other applicable laws, rules and regulations, provided that in relation to the permits and authorities mentioned in Section 5, paragraphs b), c), d) and e) of this Rule, submission of the approved permit or authority shall be a pre-condition for the release of the AEP;
- e) Timely and meritorious objection filed by a Filipino citizen who is competent, able and willing to perform the functions intended to be performed or being performed by the foreign national; and
- f) Adverse verified information that the foreign national has maltreated workers, or from competent authority that the foreign national or the employer is engaged in activities that may constitute a crime or offense under Philippine laws and applicable international laws.

The Regional Office shall immediately serve a copy of the order of denial to the applicant. The latter may file a motion for reconsideration or appeal on the order in accordance with Sections 6, 7, 8 and 9, Rule IV of these Rules.

Section 11. Effect of denial of application. A foreign national and an employer shall be disqualified to re-apply for an AEP for a period of five (5) years if the denial is based on any paragraphs a), b) or f) the immediately preceding section.

RULE III

APPLICATIONS FOR RENEWAL AND ADDITIONAL POSITION

Section 1. Requirements. A duly-notarized application for renewal of AEP or for additional position in the form prescribed by DOLE may be filed following the same requirements and procedures as a new application, subject to updating of all material information and required clearances, licenses, permits or other documents from competent authorities.

Section 2. Application for renewal. The application for renewal of an AEP may be filed within sixty (60) calendar days prior to its expiration with the DOLE Regional Office having jurisdiction over the foreign national's place of work. The application shall be supported by the following:

- a) In case the AEP was issued subject to the implementation of a UTP or SDP, an accomplishment report jointly signed by the employer and the foreign national, including the assessment and evaluation of the understudies duly signed by the latter; and
- b) A photocopy of the expiring AEP card, which shall be surrendered to the DOLE Regional Office as a condition for release of the new AEP.

Section 3. Additional position; policy and requirements. The foreign national shall only be engaged or assigned in the position for which the AEP was issued. An additional position may be allowed in exceptional cases, subject to the following:

- a) An additional position pertains to a position to be performed by a foreign national who has a subsisting AEP with the same employer or with the latter's related company but under a job category, title, description and functions distinct from the position for which the original AEP was issued.
- b) The applicant shall submit sufficient proof that:
 - i. There is no conflict between the duties and responsibilities of the original and additional positions; and
 - ii. The foreign national has the capacity to effectively perform the responsibilities of both positions under the same employer.
- c) A photocopy of the subsisting AEP card, which shall be surrendered to the DOLE Regional Office as a condition for release of the new AEP.
- d) In evaluating the application, the DOLE Regional Office shall consider the proximity of the application to the approval or expiry date of the original AEP, the place of work and other relevant circumstances.

Section 4. Payment of fee and processing. The applicant for renewal of AEP or for additional position shall pay to the DOLE Regional Office a fee of Six Thousand Pesos (Php 6,000.00) for each year of validity, with an additional fee of Five Thousand Pesos (Php 5,000.00) for every additional year or fraction thereof.

The DOLE Regional Office shall have fifteen (15) working days to process and to deny or approve the application.

Section 5. Action on the application; validity. Within five (5) working days from payment of the required fee, the DOLE Regional Office, through the Regional Director, shall act on the application by approving or denying the same.

In case of renewal of AEP, a new AEP shall be issued in the name of the foreign national within one working day from its approval and shall be valid for a period of one (1) year unless a shorter or longer period of validity is specified based on the duration of the employment or activity as stated in the employment contract or other modes of engagement, but in no case shall exceed three (3) years.

For an approved application for additional position, a new AEP shall be issued in the name of the foreign national that is coterminous with the validity period of the original AEP.

RULE IV CANCELLATION AND REVOCATION

Section 1. Cancellation of AEP. The AEP shall be cancelled by DOLE Regional Office which issued it on any of the following grounds:

- a) Unexplained or inexcusable negligence or failure of the employer or foreign national:
 - i. To claim the AEP or, as applicable, to submit the required pre-release documents within ten (10) working days from receipt of notice of issuance of the AEP; or
 - ii. To submit proof of re-election or re-appointment of the foreign national in cases covered by Section 10 c), Rule II of these Rules.
- b) Request by the employer for the cancellation of the AEP due to:
 - i. Closure of the employer's business or cessation of the activity or operation for which the foreign national was employed;
 - ii. Resignation or separation of the foreign national from employment; or
 - iii. Non-renewal of the term of office of the foreign national through re-election or re-appointment in cases covered by Section 10 c), Rule II of these Rules.

- c) Request by the foreign national for cancellation of his or her AEP with clearance from or conformity by the employer.
- d) In case of additional position, issuance of a new AEP covering the original and the additional position.

The cancellation shall be done through an order issued by the DOLE Regional Office, copy furnished the employer and the foreign national, and shall automatically be deemed to incorporate a directive for the employer or foreign national to surrender the cancelled AEP card to the Regional Office.

Section 2. Effect of cancellation. Cancellation of the AEP based on paragraph a) of the immediately preceding section shall be final and executory ten (10) calendar days from receipt of the employer or foreign national of the order of cancellation, unless a timely motion for reconsideration or appeal is filed in accordance with Sections 6, 7 and 8 of this Rule. Cancellation based on paragraphs b), c) and d) of the immediately preceding section is non-appealable and shall be immediately executory.

Once the cancellation has become final and executory, the AEP shall be deemed automatically expired and de-activated, whether or not the employer or foreign national has surrendered the AEP card.

Section 3. Revocation of AEP; grounds. The DOLE Regional Office, *motu proprio* or upon petition or complaint and after due process, evaluation and assessment, may revoke the AEP on any of the following grounds:

- a) Any of the grounds for denial of the AEP application under Section 10, paragraphs (a) to (f) Rule II of these Rules;
- b) Any act of misrepresentation, false statement, tampering, fraud or other analogous or similar act in securing the AEP;
- c) Substitution of the contract of employment or of appointment of the foreign national with a contract or an appointment different from that submitted during the application for AEP;
- d) Conviction of the foreign national of a criminal offense or status of being a fugitive from justice based on verified information;
- e) Failure of the employer or the foreign national to implement or comply with the requirements of the Skills Development Program (SDP) and Understudy Training Program (UTP); or

- f) Violation or non-compliance with the pertinent provisions of these Rules, the Labor Code as amended, and other relevant guidelines for the issuance of an AEP.

Section 4. Procedure for revocation. The DOLE Regional Director, *motu proprio* upon discovery of a ground for revocation or upon verified petition or complaint, may issue an order revoking an AEP based on any of the grounds in the immediately preceding section. The procedure for revocation shall at all times observe due process, and shall be in accordance with the following:

- a) Within ten (10) calendar days from the discovery of the ground for revocation or from receipt of the verified complaint or petition for revocation, the DOLE Regional Office shall notify and furnish the employer and the foreign national a copy of the evaluation report or the verified complaint or petition, as the case may be, with directive for the latter to submit a verified answer and supporting evidence within a non-extendible period of ten (10) calendar days from the receipt of notice, and setting two hearing dates for them to attend and be heard.
- b) The DOLE Regional Office shall complete the proceedings within thirty (30) calendar days from receipt of the verified answer, after which the case shall be deemed submitted for resolution. No motions to dismiss or for bill of particulars, postponement, or extension of time shall be entertained.
- c) Within thirty (30) calendar days from submission of the case for resolution, the DOLE Regional Director shall issue an order dismissing the complaint if it finds the verified answer and evidence submitted to be satisfactory. Otherwise, it shall issue an order revoking the permit.
- d) Every order or decision issued by the DOLE Regional Director shall state the facts of the case, the issues involved, the legal basis for the order, and the sanctions imposed or reliefs granted, if any. An order of revocation shall be deemed to include the deactivation of the AEP and a directive for the employer to surrender the same.

Section 5. Effect revocation of AEP. A foreign national and an employer shall be disqualified to re-apply for an AEP for a period of five (5) years if the revocation is based on Section 3, paragraphs a), d) or f) of this Rule, and for a period of ten (10) years if the revocation is based on Section 3, paragraphs b), c) and e) of this Rule.

Section 6. Motion for reconsideration; effect. The employer or foreign national may file a motion for reconsideration with the Regional Director on the order canceling or revoking the AEP within ten (10) calendar days from receipt thereof. The order of revocation shall be immediately executory upon denial of the motion for reconsideration.

Section 7. Appeal; effect. The employer or foreign national may file an appeal to the Office of the DOLE Secretary within ten (10) calendar days from receipt of the Regional Director's order denying the motion for reconsideration.

The appeal shall be verified and shall clearly state the errors of fact or law in the order appealed from. It shall be filed with the Regional Office of origin which, within five (5) calendar days from receipt thereof, shall transmit the entire records of the case to the Office of the DOLE Secretary.

The appeal shall not stay the execution of the order of the Regional Director revoking the AEP.

Section 8. Decision of the Secretary. The DOLE Secretary shall grant or dismiss the appeal by issuing an order or decision within thirty (30) calendar days from receipt of the entire records of the case.

An order or decision of the Secretary granting the appeal shall be immediately executory and shall have the effect of automatically re-instating and re-activating the AEP.

An order or decision of the Secretary dismissing the appeal shall become final and executory after ten (10) calendar days from receipt thereof by the appellant. If a motion for reconsideration is filed by the appellant within the same period, the resolution of the Secretary on the motion for reconsideration shall become final and executory after ten (10) calendar days from receipt thereof by the appellant.

Section 9. Applicability to orders denying an application for AEP or for certificates of exemption or exclusion. Sections 6, 7 and 8 of this Rule shall likewise apply to orders denying an application for an AEP or for certificate of exemption or exclusion referred to in Section 10, Rule II and Sections 1 and 3, Rule V of these Rules, respectively.

In case the motion for reconsideration or appeal is granted, the Regional Director shall issue the AEP within one working day from the grant of the motion for reconsideration or from receipt of the Secretary's order or decision granting the appeal.

RULE V EXEMPTIONS AND EXCLUSIONS FROM AEP

Section 1. Exemptions. The following categories of foreign nationals desiring to work in the Philippines are exempted from securing an AEP:

- 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 the diplomat's country of origin;

- b) Any accredited official and personnel of an international organization with which the Philippine government has entered into an agreement, and the dependent spouse of such official or personnel;
- c) Any foreign national who is an officer, staff or employee in his or her country's embassy in the Philippines;
- d) Any foreign national who is an officer, staff or employee of a peacekeeping or international organization, either deployed in the Philippines or invited by a non-governmental organization and accredited, endorsed or certified by the appropriate government agency;
- e) Any foreign national who comes to the Philippines to teach, present or conduct research in a university or college or in a government agency as a visiting, exchange or adjunct professor under a formal agreement between the Philippine and foreign university or college, or between the Philippine government and the sending government;
- f) Any foreign national who is a permanent, probationary or temporary resident visa holder; and
- g) Any refugee or stateless persons recognized by the DOJ pursuant to Article 17 of the 1951 and 1954 UN Conventions Relating to Status of Refugees and Stateless Persons; and
- h) Any foreign national exempted by law.

Section 2. Requests for certificate of exemption; requirements. – A foreign national falling under any of the exemptions in the immediately preceding section who intends to be employed in the Philippines shall request a certificate of exemption by submitting to the DOLE Regional Office which has jurisdiction over the intended place of work the following:

- a) Duly notarized request for certificate of exemption in the form prescribed by DOLE, which shall include material information including, among others, the name and address of the employer and the intended workplace of the foreign national;
- b) Except as to stateless persons, photocopy of the bio page of the foreign national's valid passport; and
- c) Photocopy of the foreign national's valid visa and the corresponding Alien Certificate of Registration (ACR) I-Card issued by the BI, if applicable.

In addition, a foreign national belonging to any of the categories indicated below shall submit the following:

- a) For a dependent spouse under Section 1 a) of this Rule, endorsement for employment from the DFA;

- b) For a foreign national under Section 1 e) of this Rule, copy of the agreement between the involved academic institutions or governments;
- c) For a refugee or stateless person under Section 1 g) of this Rule, Certificate of Recognition issued by DOJ; and
- d) For a foreign national under Section 1 h) of this Rule, copy of the law granting exemption.

Section 3. Exclusion. The following categories of foreign nationals desiring to work in the Philippines are excluded from securing an AEP:

- a) A foreign national who will be engaged as a member of the employer's governing board with voting rights only and who does not intervene in the management or day-to-day operations of the employer;
- b) A foreign national who will be engaged as president or treasurer and who is a part-owner of the employer, subject to the Anti-Dummy Law;
- c) An intra-corporate transferee employed by a foreign service provider continuously for at least one (1) year prior to deployment to a branch, subsidiary, affiliate, or representative office in the Philippines as executive, manager or specialist, as defined below in accordance with relevant trade agreements:
 - i. **Executive** is 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 does not directly perform tasks related to the actual provision of the service or services of the employer.
 - ii. **Manager** is a natural person within the organization who primarily directs the organization or a department or subdivision thereof, and who exercises supervision and control over other supervisory, managerial or professional staff. This position does not include first line supervisors unless the employees supervised are professionals, and employees who primarily perform tasks necessary for the provision of the service.
 - iii. **Specialist** is a natural person within the organization who possesses knowledge at an advanced level of expertise essential to the establishment or provision of the organization's services, or proprietary knowledge of the organization's services, research equipment, techniques or management. It includes but is not limited

to members of a licensed profession, unless the person mainly performs functions as executive or manager.

- d) A contractual service provider who is a manager, an executive or a specialist employed by a foreign service supplier which has no commercial presence in the Philippines, and who:
 - i. Enters the Philippines temporarily to supply a service pursuant to a contract between his or her employer and a service consumer in the Philippines;
 - ii. Possesses the appropriate educational and professional qualifications; and
 - iii. Has been employed by the foreign service supplier for at least one (1) year prior to the supply of service in the Philippines.
- e) An authorized representative of a foreign principal or employer who participates in recruitment activities of its duly licensed recruitment/manning agency accredited or registered by the Department of Migrant Workers (DMW) within or outside of the latter's registered address or acknowledged additional office in the Philippines.

Section 4. Requests for certificate of exclusion; requirements. A foreign national falling under any of the exclusions in the immediately preceding section who intends to be employed in the Philippines shall request for a certificate of exclusion by submitting to the DOLE Regional Office which has jurisdiction over the intended place of work the following:

- a) Duly-notarized request for certificate of exclusion in the form prescribed by DOLE which shall include material information including, among others, the name and address of the employer and the intended workplace of the foreign national; and
- b) Certified true copy of either the valid business/Mayor's permit of the employer or Certificate of Registration from the relevant ecozone authority in case the employer is a locator in an economic zone.

In addition, a foreign national belonging to the categories indicated below shall submit the following:

- a) For a foreign national under Section 3 a) and b) of this Rule:
 - i. Certified true copy of the updated General Information Sheet (GIS) showing the name and position of the foreign national; and
 - ii. Duly notarized secretary's certificate stating the term for which the foreign national was elected or appointed to serve as such and, where applicable, that the employer does not operate in a nationalized industry covered by the Anti-Dummy Law.

- b) For a foreign national under Section 3 c) and d) of this Rule:
 - i. Duly notarized or authenticated contract or certificate of employment between the foreign national and the originating foreign service supplier, including proof of continuous period of employment with the foreign service provider for at least one year and salary of the foreign national with such service provider; and
 - ii. Duly notarized or authenticated secondment agreement between the originating foreign company and its branch, subsidiary, affiliate, or representative office in the Philippines, or the service contract between the foreign service supplier and the employer in the Philippines.
- c) For a foreign national under Section 3 e) of this Rule:
 - i. Certified true copy of Special Recruitment Authority (SRA) granted by the DMW to an individual to conduct recruitment outside the principal's registered business address as approved by the DMW; and
 - ii. Letter of Acknowledgment (LOA) issued by the DMW 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.

Section 5. Processing of requests for certificates of exemption and exclusion; fees. Upon receipt of the request for a Certificate of Exemption or Exclusion, the DOLE Regional Office shall determine the completeness of the application and supporting documents.

If the request or supporting documents are incomplete, the same shall not be acted upon but shall be immediately returned to the foreign national for completion of all requirements.

If the request and supporting documents are complete, the foreign national shall pay the processing fee of Two Thousand Pesos (PhP 2,000.00) to the DOLE Regional Office.

Section 6. Action on the application. Within three (3) working days from payment of the required fee, the DOLE Regional Office, through the Regional Director, shall act on the application by approving or denying the same. The DOLE Regional Office may also require additional documents or proof that the foreign national falls under any of the exempted or excluded categories.

Section 7. Denial of application; cancellation or revocation of certificate of exemption or exclusion. Subject to notice to the foreign national and to the employer and the applicable standards of due process, the DOLE Regional Office may:

- a) Deny the application on the ground that the foreign national does not fall under any of the exempted or excluded categories as defined in these Rules, or on the same grounds for denial of an application for AEP under Section 10, Rule II of these Rules;
- b) Cancel the Certificate of Exemption or Exclusion based on any of the grounds for cancellation of AEP as provided for in Section 1 b) and c), Rule IV of these Rules; provided that denial on this ground shall be without prejudice to the option of the foreign national and the employer to file an application for AEP in accordance with these Rules.
- c) Revoke the Certification of Exemption or Exclusion based on any of the grounds for revocation of an AEP as provided for in Section 3, Rule IV of these Rules.

Denial of an application or cancellation of a certificate based on paragraphs a) and b) above shall be without prejudice to the option of the foreign national and the employer to file another application for AEP or for exemption or exclusion for another position in accordance with these Rules.

The employer or foreign national may file a motion for reconsideration or appeal on the denial, cancellation or revocation following the same procedures as provided for in Sections 6, 7 and 8, Rule IV of these Rules.

Section 8. Validity of certificates. 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, as the case may be.

RULE VI **DUTIES AND RESPONSIBILITIES** **OF THE EMPLOYER AND THE FOREIGN NATIONAL**

Section 1. Duties of the employer and foreign national. At all times, the employer and the foreign national shall abide with all relevant laws, these Rules and all other specific conditions prescribed in the issuance of the AEP. For this purpose, it is the joint responsibility of the employer and foreign national to ensure:

- a) That the functions to be performed by the foreign national shall be strictly in accordance with the published functions of the position, and that he or she shall not be assigned or perform additional functions except when these are directly related to or necessarily arise out of the functions for which the AEP was issued;
- b) That the foreign national shall perform his or her functions strictly in accordance with the published place or places of work for the position,

and shall not be assigned to or shall not regularly perform his or her functions in a place of work other than what is stated in the approved application, except in cases of transfer of the employer to another location or temporary assignment of the foreign national to a related company to perform the same services or functions for which the AEP was issued, and subject to the reporting requirements specified in the immediately preceding section; and

- c) The personal appearance of the foreign national, including the employees undergoing SDP or UTP if any, at the DOLE Regional Office on matters arising from the issuance of the AEP whenever required by the latter.

Section 2. Reporting and other requirements. The employer shall submit reports, material information and other requirements to the DOLE Regional Office which issued the AEP, as follows:

- a) Quarterly report of the updated list of foreign nationals with AEPs that it employed, including confirmation of their status of employment, within thirty (30) calendar days from the end of each quarter.
- b) Any change in the material information of the employer and the foreign national submitted in the application for AEP, within ten (10) calendar days from such change. This shall include but not limited to the following:
 - i. Change of name, business address, place of operation including transfer of the company to another location and contact details, and authorized representative of the employer if applicable;
 - ii. In case the employer is a corporation, any amendments to the Articles of Incorporation or By-Laws that are relevant and material to the application or renewal of an AEP;
 - iii. Change of personal data of the foreign national;
 - iv. Change of the regular place of work where the foreign national is assigned;
 - v. Assignment of the foreign national to a related company, with certification by the responsible officer of the employer that the foreign national shall perform the same services or functions for which the AEP was issued;
 - vi. Resignation or separation of the foreign national from employment;
 - vii. Cessation of the activity or operation for which the foreign national was employed, or closure of business of the employer; and
 - viii. Such other information or disclosure germane to the effective implementation of these Rules as may be required by the DOLE Regional Office.

- c) In case the continued employment of the foreign national in the position for which the AEP was issued requires re-election or re-appointment within the period of validity of the AEP, notarized corporate secretary's certification that the foreign national has been re-elected or re-appointed to the same position, at least ten (10) working days prior to the expiry of the foreign national's original term of election or appointment.
- d) Periodic progress report on the implementation of the UTP or SDP, as applicable, in accordance with the schedule of reporting prescribed in the approved UTP or SDP.

Section 3. Understudy Training Program (UTP) or Skills Development Program (SDP). In line with the policy to promote human resource development and ensure the effective transfer of skills, knowledge and technology to Filipinos, employers and foreign nationals covered by the requirement to adopt and implement a UTP or SDP shall be guided by the following:

- a) The UTP or SDP must be submitted to the DOLE Regional Office with the application for AEP and must contain:
 - i. The objectives of the program, the specific skills and competencies to be transferred and developed, and the learning milestones and timetables;
 - ii. The duration of implementation of the UTP or SDP, which must start within five (5) working days from the foreign national's employment and conclude not later than five (5) working days prior to the expiry date of the AEP;
 - iii. At least two identified understudies per foreign national, their positions, proof that they are regular employees of the applicant employer and, in the case of UTPs, that such positions are next-in-rank to the position to be occupied by the foreign national;
 - iv. Standards of evaluation and assessment tools for the learning milestones, including the schedule of periodic evaluation and reporting to the DOLE Regional Office; and
 - v. The person responsible for overseeing and evaluating the implementation of the UTP or SDP other than the foreign national, who must be knowledgeable and proficient in human resource development and training.
- b) Within five (5) working days from each periodic evaluation or completion of the UTP or SDP, the employer shall submit a progress evaluation report or accomplishment and completion report to the DOLE Regional Office.

The foregoing shall be without prejudice to further technical guidelines that DOLE may issue from time to time. Upon request or when necessary, the DOLE Regional Office shall provide technical assistance in the formulation, design, implementation, evaluation and assessment of the UTP or SDP.

Section 4. Duty to keep and maintain records. The employer shall keep and maintain all employment records of the foreign national, which shall be made available for inspection by the DOLE Regional Office which issued the AEP or which has territorial jurisdiction over the place of work of the foreign national at any time in accordance with applicable rules and regulations in the conduct of inspection.

RULE VII PROHIBITED ACTS AND ADMINISTRATIVE PENALTIES

Section 1. Prohibited acts. The following are prohibited acts of the employer and foreign national:

- a) Any act of misrepresentation, false statement, tampering, fraud or other analogous or similar act that constitutes a ground for denial of an application for AEP under Section 10 a) and b), Rule II of these Rules;
- b) Any act that constitutes a ground for revocation of an AEP under Section 3, paragraphs a), b), c) and e) of Rule IV of these Rules; or
- c) Deliberate or willful disregard or non-compliance with any of the provisions of these Rules.

Section 2. Administrative fines and penalties. Subject to the requirements of due process, the DOLE Regional Office shall impose a fine in the maximum amount of Ten Thousand Pesos (PHP 10,000.00) each against the foreign national and employer for every prohibited act committed.

Any employer and foreign national found to have committed any of the prohibited acts stated in paragraph a) of the immediately preceding section shall be barred from applying for an AEP for five (5) years. Any employer or foreign national found to have committed any of the prohibited acts in paragraphs b) and c) shall be barred from applying for an AEP for ten (10) years.

RULE VIII MANAGEMENT, ADMINISTRATION AND ENFORCEMENT

Section 1. Policy review. The DOLE, in consultation with concerned agencies, stakeholders and sectors, shall undertake a periodic review of these Rules to ensure its alignment with national development objectives. As necessary based on bilateral, regional and international commitments as well as labor market and other relevant

economic and industry needs and trends, it may develop and issue negative and positive lists to assist in ensuring that the employment of foreign nationals in the Philippines shall remain consistent with the Constitution, applicable laws and regulations, and the national interest.

Section 2. Alien Employment Permit Management System; monitoring and evaluation. - The DOLE shall continue to develop and enhance the Alien Employment Permit Management System (AEPMS) to ensure the efficient and effective implementation of these Rules. For this purpose, the DOLE shall continue to take such measures to enhance efficiency, security and coordination within its offices and with other government agencies, such as:

- a) Continuous improvement of the AEPMS database, under which the DOLE Regional Offices shall submit monthly or periodic reports on administrative data related to the issuance and administration of AEPs and Certificates of Exemption or Exclusion to the Bureau of Local Employment (BLE) within thirty (30) calendar days from the applicable reference period.
- b) Adoption of a biometric procedure and technology-based measures for the identification of foreign nationals working in the Philippines to enhance the efficiency, accuracy, integrity and security of the AEP system.
- c) Establishment of referral and data-sharing systems through which the DOLE Regional Offices and the BLE can notify or request other appropriate and concerned agencies to take action or request information in relation to foreign nationals and their employers relevant to the implementation, administration and enforcement of these Rules.

Section 3. Administration and enforcement of labor standards. The DOLE Regional Office shall ensure, through its labor education and inspection programs, that employers and establishments hiring foreign nationals are compliant with general labor standards, occupational safety and health standards, and other social legislations.

Section 4. Data privacy and freedom of information compliance. Nothing in these Rules shall be construed as waiving any right or privilege, or diminishing any duty or obligation, or amending any standard arising from Republic Act No. 10173 (Data Privacy Act of 2012) and Executive Order No. 2, Series of 2016 (Freedom of Information) and their respective implementing rules and regulations.

RULE IX FINAL PROVISIONS

Section 1. Applicability of Rules of Court. The Revised Rules of Court of the Philippines shall, whenever applicable, supplement these Rules in proceedings brought before the DOLE.

Section 2. Superseding clause. All guidelines, issuances, procedures and agreements inconsistent herewith are hereby superseded or modified accordingly.

Section 3. Separability clause. In case any provision of these Rules shall be declared invalid, illegal or unenforceable by competent authority, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 4. Effectivity clause. These Rules shall take effect prospectively fifteen (15) days after its publication in the Official Gazette or newspaper of general circulation.


BIENVENIDO E. LAGUESMA
Secretary

21 January 2025