

REPUBLIC ACT NO. 8042

June 7, 1995

Omnibus Rules and Regulations Implementing The Migrant Workers and Overseas Filipinos Act of 1995

I.

GENERAL POLICY STATEMENT

Section 1. Declaration of Policies. -

(a) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount its relations with other states, the State shall, all times, uphold the dignity of its citizens whether in the country or overseas, in general, the Filipino migrant workers, in particular.

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

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

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

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

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

(g) The State recognizes that the ultimate protection to all migrant workers is the possession of skills. Pursuant to this and as soon as practicable, the government shall deploy and/or allow the deployment only to skilled Filipino workers.

(h) Non-governmental organizations, duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare, the State shall cooperate with them in a spirit of trust and mutual respect.

II. DEFINITION OF TERMS

Section 2. Definitions. -

(a) Migrant Workers or Overseas Filipino Workers - a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a state which he or she is not a legal resident. A person to be engaged in a remunerated activity" refers to an applicant worker who has been promised or assured employment overseas and acting on such promise or assurance sustains damage and/or injury.

(b) Overseas Filipinos - are migrant workers, other Filipino nationals and their dependents abroad.

(c) Overseas Filipino in distress - Overseas Filipinos as defined in Section 3(c) of the Act shall be deemed in distress in cases where they have valid medical, psychological or legal assistance problems requiring treatment, hospitalization, counseling, legal representation is specified in Sections 24 and 26 or any other kind of intervention with the authorities in the country where they are found.

(d) Legal Resident - a person who has obtained permanent residency status in accordance with the law of the host country.

(e) Documented Migrant Workers

(i) those who possess valid passports and visas or permits to stay in the host country and whose contracts of employment have been processed by the POEA if required by law or regulation; or (2) those registered by the Migrant-Workers and Other Overseas Filipinos Resource Center or by the Embassy. Those who do not fall under the preceding paragraph are considered undocumented migrant workers.

(f) Undocumented Filipinos –

(1) Those who acquired their passports through fraud or misrepresentation;

(2) Those who possess expired visas or permits to stay;

(3) Those who have no travel document what so ever

(4) Those who have valid but in appropriate visas;

(g) Gender Sensitivity - cognizant of the inequalities and inequities prevalent in society between women and men and a commitment to address issues with concern for the respective interest of the sexes.

(h) Legal Assistance - includes, in appropriate cases, giving legal advice, active participation in litigation whenever allowed by local laws, hiring of private lawyers, documentation assistance payment of bail bonds, court fees and other litigation expenses.

(i) Bonfire Non-Government Organizations (NGOs) non-government organizations duly registered with appropriate Philippine government agencies which, active partners of the Philippine Government in the protection of Filipino migrant workers and the promotion of their welfare.

(j) Skilled Workers - those who have obtained an academic degree or sufficient training or experience in the job for which they are applying, as may be determined by the Secretary of Labor and Employment.

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

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

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

(n) Service Contractor - any person, partnership or corporation duly licensed by the Secretary of Labor and Employment to recruit workers for its accredited projects or contracts overseas.

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

(p) Act - the "Migrant Workers and Overseas Filipinos Act of 1995," to be used interchangeably with the "R.A 8042."

(q) DFA-the Department of Foreign Affairs.

(r) DOLE -the Department of Labor and Employment.

(s) POEA - the Philippine Overseas Employment Administration.

(t) OWWA - the Overseas Workers Welfare Administration.

(u) NLRC -the National Labor Relations Commission.

(v) BLE - the Bureau of Local Employment

(w) TESDA - the Technical Education and Skills Development Authority.

(x) DOJ - the Department of Justice.

(y) DOST- the Department of Science and Technology.

III. DEPLOYMENT

Section 3. Guarantee of Migrant Workers Rights. –

The Secretary of Labor and Employment shall deploy or allow the deployment of Filipino migrant workers only in countries where their rights are protected, recognizing any of the following as a guarantee for the protection of the rights of migrant workers:

(a) The country has existing labor and social laws protecting the rights of migrant workers;

(b) The country is a signatory to multilateral conventions declarations or resolutions relating to the protection of migrant workers;

(c) The country has concluded a bilateral agreement or arrangement with the Philippine Government on the protection of the rights of Overseas Filipino Workers;

and

(d) The host country is taking positive, concrete measures to protect the rights of migrant workers. The POEA shall process overseas employment contracts only for countries meeting any of the above criteria, as determined by the Secretary of Labor and Employment.

Section 4. Deployment of Skilled Workers. -

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

Section 5. Ban on Deployment. -

Notwithstanding the provisions of Sections 3 and 4 of these Rules, the Secretary of Labor and Employment, in pursuit of the national interest or-when public welfare so requires, may, at any time, terminate or impose ban on the deployment of migrant workers.

Section 6. Travel Advisory. -

The DFA through the POEA shall issue travel advisories or disseminate information on labor and employment conditions, migration realities and other facts, as well as adherence of particular countries to international standards on human and workers rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment. The POEA shall publish, at least once a month, such advisory in a newspaper of general circulation.

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

IV.

REGULATION OF PRIVATE SECTOR PARTICIPATION

Section 7. Role of POEA. -

Subject to deregulation and phase out as provided under Sections 29 and 30 of the Act, the POEA shall continue to regulate private sector participation in the recruitment and overseas placement of workers through its licensing and registration system pursuant to its Rules and Regulations on Overseas Employment.

POEA shall formulate and implement, in coordination with appropriate entities concerned when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements. The POEA shall come up with a package of incentives for deserving manning agencies and service contractors, along with the policy that the deployment of workers by such entities shall be encouraged.

V. FEES AND OTHER COSTS

Section 8. Government Fees and Administrative Costs. -

All fees for services being charged by any government office on migrant workers as of 7 June 1995 shall not be increased. All other services rendered by the DOLE and other government agencies in connection with the recruitment introduction and placement of and assistance to migrant workers shall be rendered free. The administrative cost thereof shall not be borne by the worker.

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

VI. ILLEGAL RECRUITMENT

Section 9. Definition. -

For purposes of the Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of the Labor Code of the Philippines: *Provided*, That any such non-licensee or non-holder who, in any manner, offers or

promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts committed by any person whether or not a holder of a license or authority:

(a) To charge or accept directly or indirectly any amount Greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay the recruiter or its agents any amount greater than that actually loaned or advanced to him;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;

(c) To give any false notice, testimony, information or document or to commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;

(d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;

(e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;

(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines as may be prohibited by law or duly constituted authority;

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

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

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

(j) For an officer or agent of a recruitment or placement agency to become officer or member of the Board of any corporation engaged in

travel agency or to be engaged directly or indirectly in the management of a travel agency;

(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;

(l) To fail to actually deploy without valid reason as determined by the DOLE; and

(m) To fail to reimburse expenses incurred by the worker in connection with his/her documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the workers fault.

Section 10. Crime Involving Economic Sabotage. -

Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage. Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

Section 11. Persons Responsible. -

The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officer having control, management or direction of their business shall be liable.

Section 12. Independent Administrative Action. -

The institution of the criminal action is without prejudice to any administrative action against the licensee or holder of authority cognizable by the POEA which could proceed independently of the criminal action.

VII. PROHIBITION ON GOVERNMENT PERSONNEL

Section 13. Disqualification. -

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

(a) Any official or employee of the DOLE, POEA OWWA, DFA, DOJ and other government agencies involved in the implementation of this Act, regardless of the status of his/her employment; and

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

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

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

VIII.

ANTI-ILLEGAL RECRUITMENT PROGRAMS

Section 14. POEA Programs. -

The POEA shall adopt policies and procedures, prepare and implement programs toward the eradication of illegal recruitment activities such as, but not limited to the following:

(a) Providing legal assistance to victims of illegal recruitment and related cases which are administrative or criminal in nature;

(b) Prosecution of illegal recruiters;

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

(d) Information and education campaign.

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

Section 15. Legal Assistance.-

The POEA shall provide free legal service to victims of illegal recruitment and related cases which are administrative or criminal in nature in the form of legal advice, assistance in the preparation of complaints and supporting documents, institution of criminal actions and whenever necessary, provide counseling assistance during preliminary investigation and hearings.

Section 16. Receiving of Complaints for illegal Recruitment -

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

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

Section 17. Action on the Complaint/Report. -

Where the complaint report alleges that illegal recruitment activities are ongoing, surveillance shall be conducted and if such activities are confirmed, issuance of closure order may be recommended to the POEA Administrator through the Director of the Licensing and Regulation Office (Director - LRO). If sufficient basis for criminal action is found, the case shall be immediately forwarded to the appropriate office for such action.

Section 18. Surveillance. -

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

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

Section 19. Issuance of Closure Order. -

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

If upon the preliminary examination or surveillance, the Secretary of Labor and Employment, the POEA Administrator or DOLE Regional Director is satisfied that such danger or exploitation exists, a written order may be issued for the closure of the establishment being used for illegal recruitment activity.

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

Section 20. Implementation of Closure Order. -

Closure order shall be served upon the offender or the person in charge of the establishment subject thereof. The closure shall be effected by sealing the establishment and posting a notice of such closure in bold letters at a conspicuous place in the premises of the establishment. Whenever necessary, the assistance and support of the appropriate law enforcement agencies may be requested for this purpose.

Section 21. Report on Implementation. -

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

Section 22. Institution of Criminal Action. -

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

Where a complaint is filed with the POEA and the same is proper for preliminary investigation, it shall file the corresponding complaint with the appropriate officer, with the supporting documents.

Section 23. Motion to Lift A Closure Order. -

A motion to lift a closure order which has already been implemented may be entertained only when filed with the Licensing and Regulation Office (LRO) within ten (10) calendar days from the date of implementation thereof. The motion shall clearly state the grounds upon

which it is based, attaching thereto the documents in support thereof. A motion to lift which does not conform with the requirements herein set forth shall be denied outrightly.

Section 24. Who May File. -

The motion to lift a closure order may be filed only by the following:

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

(b) The building administrator or his/her duly authorized representative;

(c) The person or entity against whom the closure order was issued and implemented or the duly authorized representative; or

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

Section 25. Grounds for Lifting/Re-Opening. -

Lifting of the closure order and/or re-opening of the office closed or padlocked may be granted on any of the following grounds:

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

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

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

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

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

Section 26. Appeal. -

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

Section 27. Re-Padlocking of Office. -

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

IX.
PRE-EMPLOYMENT AND DISCIPLINARY ACTION CASES

Section 28. Jurisdiction of the POEA. -

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

(a) all cases, which are administrative in character, involving or arising out of violations of rules and regulations relating to licensing and registration of recruitment and employment agencies or entities; and

(b) disciplinary action cases and other special cases, which are administrative in character, involving employers, principals, contracting partners and Filipino migrant workers.

Section 29. Venue. -

The cases mentioned in Section 28(a) of this Rule, may be filed with the POEA Adjudication Office or the DOLE/POEA regional office of the place where the complaint applied or was recruited, at the option of the complainant. The office with which the complaint was first filed shall take cognizance of the case.

Disciplinary action cases and other special cases, as mentioned in the preceding Section, shall be filed with the POEA Adjudication Office.

X.
MIGRANT WORKERS LOAN GUARANTEE FUND

Section 30. Definitions. -

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

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

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

(d) GFIs - refers to government financial institutions.

Section 31. Loan Guarantee Fund. -

The Migrant Workers Loan Guarantee Fund is hereby established:

(a) to prevent any recruiter from taking advantage of workers seeking employment abroad by expanding the grant of Pre-Departure and Family Assistance Loans to covered migrant workers;

(b) to establish and operate a guarantee system in order to provide guarantee cover on the pre-departure and family assistance loans of migrant workers who lack or have insufficient collateral or securities; and

(c) to ensure the participation of GFIs in extending loan assistance to needy migrant workers who are to be engaged or is engaged for a remunerated activity abroad.

Section 32. Coverage and Scope. -

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

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

Section 33. Administration of the Fund. -

Pursuant to Section 21 of the Act, the amount of One hundred million pesos (P100,000,000.00) from the Capital Funds of OWWA shall constitute the Migrant Workers Loan Guarantee Fund. The Fund, which shall be administered by the OWWA, shall be used exclusively to guarantee the repayment of Pre-Departure and Family Assistance Loans granted by participating GFIs.

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

Section 34. Financing Scheme. -

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

Section 35. Guarantee Agreement. -

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

XI.

CONGRESSIONAL MIGRANT WORKERS SCHOLARSHIP PROGRAM

Section 36. Establishment of the Congressional Migrant Workers Scholarship Fund. -

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

Section 37. Sources of Fund. -

The initial seed Fund of Two hundred million pesos (P200,000,000.00) shall be constituted from the following sources:

(a) Fifty million pesos (P50,000,000.00) from the unexpended Countrywide Development Fund for 1995 in equal sharing by all Members of Congress; and

(b) The remaining One hundred fifty million pesos (P 50,000,000.00) shall be funded from the proceeds of Lotto draws.

Section 38. Creation of the Scholarship Fund Committee. -

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

Section 39. Functions of the Scholarship Fund Committee.

(a) To set the coverage, criteria and standards of admission to the Scholarship Program;

(b) To determine the amount of availment;

(c) To monitor and evaluate the program;

(d) To identify/accredit training and testing institutions; and

(e) To perform such other functions necessary to attain the purpose of the Fund.

Section 40. Implementing Agency. -

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

XII.

LEGAL ASSISTANT FOR MIGRANT WORKERS AFFAIRS

Section 41. Function and Responsibilities. -

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

(a) Issue the guidelines, procedures and criteria for the provision of legal assistance services to Filipino Migrant Workers;

(b) Establish close linkages with the DOLE, POEA, OWWA and other government agencies concerned, as well as with non-governmental organizations assisting migrant workers, to ensure effective coordination in providing legal assistance to migrant workers,

(c) Tap the assistance of the Integrated Bar of the Philippines (IBP), other bar associations, and reputable law firms, as the need arises, to complement government services and resources to provide legal assistance to migrant workers;

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

(e) Keep and maintain an information system for migration as provided in Sec. 20 of the Act; and

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

Section 42. Qualifications and Authority. -

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

The Legal Assistant for Migrant Workers Affairs shall have authority to hire private lawyers, domestic or foreign, in order to assist him/her in the effective discharge of the functions of his/her Office.

Section 43. Legal Assistance Fund. -

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

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

(a) Payment of attorney's fees to foreign lawyers for their services in representing migrant workers facing criminal and other charges;

(b) Bail bonds to secure the temporary release of workers under detention when so recommended by the lawyer;

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

XIII. MIGRANT WORKERS AND OTHER OVERSEAS FILIPINOS RESOURCE CENTER

Section 44. Establishment of Overseas Filipino Resource Center. -

Pursuant to Sections 19 and 23 of the Migrant Workers and Overseas Filipinos Act of 1995, a Migrant Workers and Overseas Filipino Resource Center (Filipino Resource Center) shall be established in countries where there are at least 20,000 migrant workers. Where feasible it shall be established within the premises of the Embassy.

When the Filipino Resource Center is established outside the premises of the Embassy, the Department of Foreign Affairs shall exert its best effort to secure appropriate accreditation from the host government in accordance with applicable laws and practices.

Section 45. Services. -

The Filipino Resource Center shall provide the following services:

- (a) Counseling and legal services;
- (b) Welfare assistance including the procurement of medical and hospitalization services;
- (c) Information, advisory programs to promote social integration such as post-arrival orientation, settlement and community networking services and activities for social interaction;
- (d) Registration of undocumented workers to bring them within the purview of the Act;
- (e) Implementation of the Voluntary Membership Program of OWWA;
- (f) Human resource development, such as training and skills upgrading;
- (g) Gender-sensitive programs and activities to assist particular needs of migrant workers;
- (h) Orientation program for returning workers and other migrants;
- (i) Monitoring of daily situation, circumstances and activities affecting migrant workers and other overseas Filipinos;

(j) Seeing to it that labor and social welfare laws in the host country are fairly applied to migrant workers and other overseas Filipinos, and

(k) Conciliation of disputes arising from employer-employee relationship.

Section 46. Personnel. -

Each Filipino Resource Center shall be staffed by a minimum of four (4) personnel composed of the following:

- a. a Labor Attache (DOLE)
- b. Foreign Service personnel (DFA)
- c. a Welfare Officer (OWWA)
- d. a Center Coordinator (OWWA)
- e. an interpreter, when necessary (local hire)

When the Foreign Service Post is deemed highly problematic and has a concentration of Filipino migrant workers, a lawyer and a social worker may be deployed by concerned government agency upon the recommendation of the Chief of Mission.

Section 47. Administration. -

The Labor Attache shall coordinate the operation of the Filipino Resource Center and shall keep the Chief of Mission informed and updated on all matters affecting it.

Section 48. Round-the Clock Operations. -

The Filipino Resource Center shall operate on a 24-hour basis including Saturdays, Sundays and holidays. A counterpart 24-hour information and Assistance Center to ensure a continuous network and coordinative mechanism shall be established at the DFA.

Section 49. Budget. -

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

presently manned and operated by the OWWA shall be funded by the OWWA until such time as the operating expenses and other related expenditures of the Filipinos Resource Centers are integrated in the GAA.

However, the salaries and allowances of overseas personnel shall be sourced from their respective agency's budget.

Section 50. Sharing of information. -

The registry of undocumented workers and other relevant data shall be provided by the Filipinos Resource Centers to the inter-agency Committee on Shared Information Systems.

XIV. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS

Section 51 . Role of OWWA. -

The Welfare Officer, or in his/her absence, the Center Coordinator of the Filipinos Resource Center shall make proper representations with the employer/principal and/or agency as the case may be, through conciliation meetings or conferences for the purpose of enforcing contractual obligations concerning migrant workers. For this purpose, the officer may enlist the assistance of the OWWA Home Office.

XV. REPATRIATION OF FILIPINO MIGRANT WORKERS

Section 52. Primary Responsibility for Repatriation. -

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

Section 53. Repatriation of Workers. -

The primary responsibility to repatriate entails the obligation on the part of the principal or agency to advance the cost of plane fare and to immediately repatriate the worker should the need for it arise, without a prior determination of the cause of the termination of the worker's employment. However, after the worker has returned to the country, the

principal or agency may recover the cost of repatriation from the worker if the termination of employment was due solely to his/her fault.

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

Section 54. Repatriation Procedure. -

When a need for repatriation arises and the foreign employer fails to provide for its cost, the responsible personnel at site shall simultaneously notify OWWA and the POEA of such need. The POEA shall notify the agency concerned of the need for repatriation. The agency shall provide the plane ticket or the prepaid ticket advice (PIA) to the Filipinos Resource Center or to the appropriate Philippine Embassy; and notify POEA of such compliance. The POEA shall inform OWWA of the action of the agency.

Section 55. Action on Non-Compliance. -

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

Section 56. Emergency Repatriation. -

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

Section 57. Mandatory Repatriation of Underage Migrant Workers. -

The responsible officer at the foreign service post shall immediately cause the repatriation of underage Filipino migrant workers. The cost attendant to this activity shall be borne correspondingly by the agency and/or principal or the OWWA as the case maybe.

Section 58. Other Cases of Repatriation. -

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

Section 59. Emergency Repatriation Fund. -

When repatriation becomes immediate and necessary, the OWWA shall advance the needed costs from the Emergency Repatriation Fund without prejudice to reimbursement by the deploying agency and/or principal, or the worker in appropriate cases. Simultaneously, the POEA shall ask the concerned agency to work towards reimbursement of costs advanced by the OWWA. In cases where the cost of repatriation shall exceed One Hundred Million (P100,000,000.00) Pesos, the OWWA shall make representation with the Office of the President for immediate funding in excess of said amount.

Section 60. Prohibition on Bonds and Deposits. -

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

Section 61. Abolition of Mandatory Repatriation Bond. -

Pursuant to Section 36 of R.A 8042, the mandatory repatriation bond is abolished as of 7 June 1995.

XVI.
MONEY CLAIMS

Section 62. Jurisdiction of the Labor Arbiters. -

The labor Arbiters of the NLRC shall have the original and exclusive jurisdiction to hear and decide all claims arising out of employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages, subject to the rules and procedures of the NLRC.

Section 63. Pending Cases. -

All unresolved money claims pending at POEA as of 15 July 1995 shall be referred to NLRC for disposition.

Section 64. Solidary Liability. -

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

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

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

Section 65. Compromise Agreement. -

Any compromise, amicable settlement or voluntary agreement on money claims inclusive of damages under this Rule shall be paid within four (4) months from the approval of the settlement by the appropriate authority.

XVII.

RE-PLACEMENT AND MONITORING CENTER (RPM CENTER)

Section 66. Re-Placement and Monitoring Center. -

A Re-Placement and Monitoring Center (RPM Center) is hereby created in the DOLE for returning Filipino migrant workers which shall:

(a) provide a mechanism for their reintegration into the Philippine society;

(b) serve as a promotion house for their local employment; and

(c) tap their skills and potentials for national development.

The RPM Center shall be under the administrative supervision and control of the Secretary of Labor and Employment. The RPM Center, while serving the needs of returning migrant workers, shall likewise provide support to related programs in the Filipinos Resource Centers.

Section 67. Secretariat. -

A Secretariat shall be created to be composed of technical staff from, but not limited to, the OWWA, POEA, TESDA, and BLE; and shall be headed by a Program Manager to be designated by the Secretary of Labor and Employment. The Secretariat shall be the coordinating and monitoring body of the RPM Center.

Section 68. Participation of Government, Private Sector and NGOs. -

The DOLE, in pursuit of the objectives and functions of the Center, may request the participation of other government agencies, the private sector and non-government organizations. Each participating entity shall identify and develop programs or services related to reintegration for the attainment of the Center's objectives. A Memorandum of Agreement (MOA) shall be entered into by the participating entities to define their respective roles.

Section 69. Functions of the Center. -

(a) Develop livelihood programs and projects for returning Filipino migrant workers in coordination with the private sector;

(b) Coordinate with appropriate private and government agencies in the promotion, development, re-placement and the full utilization of the potentials of returning migrant workers;

(c) Institute, in cooperation with other government agencies concerned, a computer-based information system on skilled Filipino migrant workers which shall be accessible to all local recruitment agencies and employers, both public and private;

(d) Provide a periodic study and assessment of job opportunities for returning Filipino migrant workers;

(e) Develop and implement other appropriate programs to promote the welfare of returning Filipino migrant workers; and

(f) In coordination with DOST, provide incentives for professionals and other highly skilled Filipinos abroad, especially in the field of science and technology, to participate in and contribute to national development.

Section 70. Funding for the Center. -

(a) Funds necessary for the establishment and initial implementation of the programs or services of the RPM Center shall be sourced from each of the participating agencies as may be determined by the Secretary of Labor and Employment.

(b) Funds for the operation of the RPM Center shall come from the General Appropriations Act and shall be integrated into the annual budget of the DOLE.

XVIII.

SHARED GOVERNMENT INFORMATION SYSTEM FOR MIGRATION

Section 71. Composition. -

Said Inter-Agency Committee shall be composed of the following agencies:

- (a) The Department of Foreign Affairs, as Chairman,
- (b) Department of Labor and Employment, as Vice chairman;
- (c) Department of Justice;
- (d) Department of Tourism;
- (e) Philippine Overseas Employment Administration;
- (f) Overseas Workers Welfare Administration;
- (g) Bureau of immigration;
- (h) National Bureau of investigation;
- (i) National Statistics Office; and
- (j) Commission on Filipinos Overseas

Section 72. Initially, the Inter-Agency Committee shall make available to itself the information contained in existing data bases/files. The second

phase shall involve the linking of computer facilities in order to allow free-flow data exchanges and sharing among concerned agencies.

Section 73. Information and data acquired through this shared information system shall be treated as confidential and shall only be used for lawful and official purposes, connected to the usual functions of the member agencies, and for purposes envisioned by R.A. 8042.

Section 74. The Inter-Agency Committee shall convene to identify existing data bases which shall be declassified and shared only among member agencies. These shared data bases shall initially include, but not be limited to, the following:

(a) Masterlists of Filipino migrant workers/mail order brides/overseas Filipinos classified according to occupation/job category, civil status, by country/state of destination including visa classification;

(b) Inventory of pending legal cases involving Filipino migrant workers and other Filipino nationals, including those serving prison terms;

(c) Masterlist of departing/arriving Filipinos;

(d) Statistical profile on Filipino migrant workers/overseas Filipinos/tourists;

(e) Blacklisted foreigners/undesirable aliens;

(f) Basic data on legal systems, immigration policies, marriage laws and civil and criminal codes in receiving countries particularly those with large numbers of Filipinos;

(g) List of labor and other human rights instruments where receiving countries are signatories;

(h) A tracking system of past and present gender disaggregated cases involving male and female migrant workers;

(i) Listing of overseas posts which may render assistance to overseas Filipinos, in general, and migrant workers, in particular.

(j) Listing of accredited recruiters and recruitment agencies;

(k) Listing of accredited foreign employers; and

(l) Listing of recruiters and recruitment agencies with decided/pending criminal/civil/administrative cases, and their dispositions.

For purposes of declassifying information, the inter-agency Committee shall establish policies, guidelines and procedures.

Section 75. The Inter-Agency Committee shall submit appropriate recommendations to the President. It shall also provide information and factual basis for the report to Congress by the DFA and DOLE.

Section 76. Secretariat. -

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

Section 77. Funds. -

There is hereby allocated the initial amount of P10M from the Philippine Charity Sweepstakes Office to carry out the provisions of this Rule. Thereafter, the actual budget of the inter-agency Committee shall be drawn from the General Appropriations Act in accordance with Section 38 of R.A. 8042.

XIX. MIGRANT WORKERS DAY

Section 78. Commemoration. -

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

XX. MISCELLANEOUS PROVISIONS

Section 79. Additional Members of the POEA and OWWA Boards.

The POEA and OWWA Boards shall have at least three (3) additional members each to come from the women, sea-based and land-based sectors, and to be appointed by the President.

Section 80. Reports to Congress. -

The DFA and DOLE shall submit to Congress the required reports under Section 33 of the Act on or before the last day of the Quarter following the reporting period.

Section 81. Repealing Clause. -

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

Section 82. Effectivity. -

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

Done in the City of Manila, this 29th day of February 1996.

(Sgd.)
DOMINGO L. SIAZON, JR.
Secretary
Department of Foreign Affairs

(Sgd.)
JOSE S. BRILLANTES
Acting Secretary
Department of Labor and Employment