

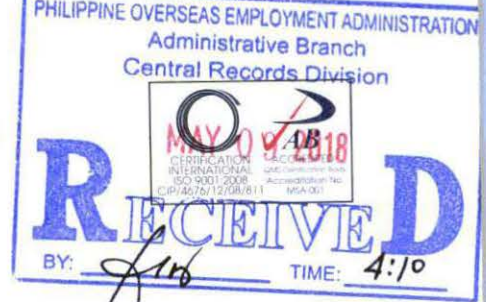


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MEMORANDUM CIRCULAR No. 08
Series of 2018



TO : All Concerned

SUBJECT : Implementing Guidelines on the Registration of Direct-Hire Overseas Filipino Workers (OFWs)

DATE : 26 April 2018

Pursuant to DOLE Administrative Order No. 196, Series of 2018, in relation to Article 18 of the Labor Code of the Philippines (Ban on Direct Hiring), Republic Act 10022, and the Revised Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Workers of 2016, while observing the fundamental principle of deployment of workers only to countries with certification as compliant destination for our workers, the following guidelines shall govern the registration of Direct-Hire OFWs by this Administration.

I. Coverage. No employer shall directly hire an overseas Filipino worker for overseas employment. The following, however, are exempted from the ban:

- a. Members of the diplomatic corps;
- b. International organizations;
- c. Heads of state and government officials with the rank of at least deputy minister; or
- d. Other employers as may be allowed by the Administration, such as:
 1. Those provided in a., b., and c. above who bear a lesser rank, if endorsed by the Philippine Overseas Labor Office (POLO), or Head of Mission in the absence of the POLO;
 2. Professionals and skilled workers with duly executed verified/authenticated contracts containing terms and conditions over and above the standards set by the POEA. The number of professionals and skilled OFWs hired for the first time by the employer shall not exceed five (5). For the purpose of determining the number, workers hired as a group shall be counted as one; or
 3. Workers hired by a relative/family member who is a permanent resident of the host country, except domestic workers (live-in caregiver/care worker or household service workers).

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BY CRD ON 09 MAY 2018

II. Employment Standards. Pursuant to Section 134 of the 2016 Revised POEA Rules, the Administration shall secure the best possible terms and conditions of employment for OFWs. As such, it shall develop and continually review employment standards in accordance with policy thrusts and market developments, including Direct-Hire OFWs.

- a. *Life and insurance coverage.* It is the primary responsibility of the employer that the Direct-Hire OFW is provided with a compulsory insurance coverage. The repatriation insurance of an OFW and his/her remains, and the transport of his/her personal effects shall be the obligation of the employer to cover actual repatriation cost and other attendant costs, including airfare and immigration fines/penalties.

- b. *Minimum Provisions of Employment Contracts.* Pursuant further to Section 135 of the same Rules, the following shall be the minimum provisions in employment contracts for all Direct-Hire OFWs:
 1. Complete name and address of the employer/company;
 2. Position and jobsite of the Overseas Filipino Worker;
 3. Basic monthly salary, including benefits and allowances and mode of payment. The salary shall not be lower than the prescribed minimum wage in the host country or prevailing minimum wage in the National Capital Region of the Philippines, whichever is higher;
 4. Food and accommodation or the monetary equivalent which shall be commensurate to the cost of living in the host country, or off-setting benefits;
 5. Commencement and duration of contract;
 6. Free transportation from and back to the point of hire, or off-setting benefits, and free inland transportation at the jobsite or off-setting benefits;
 7. Regular work hours and day off;
 8. Overtime pay for services rendered beyond the regular working hours, rest days and holidays;
 9. Vacation leave and sick leave for every year of service;
 10. Free emergency medical and dental treatment;
 11. Just/valid/authorized causes for termination of the contract or of the services of the workers, taking into consideration the customs, traditions, norms, mores, practices, company policies and the labor laws and social legislations of the host country;
 12. Settlement of disputes;
 13. Repatriation of worker in case of imminent danger due to war, calamity, and other analogous circumstances, at the expense of employer; and
 14. In case of worker's death/repatriation of Overseas Filipino Workers human remains and personal belongings, at the expense of the employer.

- c. *Standards for Professionals and Skilled Direct-Hire OFWs.* For professionals and skilled Direct-Hire OFWs, the employment offer should be over and above the

minimum provisions of employment contract stated above, and may include provisions such as, but not limited to:

1. Basic compensation package above the minimum prescribed minimum wage in the host country;
2. Provision of secured conveyance to and from the work site;
3. Bonuses;
4. Annual vacation with full pay and free airline tickets;
5. Gratuity pay;
6. End of service award benefits;
7. Free education for OFW children who are 18 years old or younger;
8. Stock option program.

The Administration may likewise formulate country or skill specific policies and guidelines for Direct-Hire OFWs based on the following:

- Existing labor and social laws of the host country;
- Relevant bilateral and multilateral agreements or arrangements with the host country; and
- Prevailing conditions/realities in the market.

IV. Medical Examination. Direct-Hire OFWs shall undergo and pass the pre-employment medical examination (PEME) by a hospital or a medical clinic accredited by the Department of Health (DOH) for the conduct of such examination in accordance with the medical requirements of the host country.

A Direct-Hire OFW may be exempted from PEME if the worker has undergone a medical examination as a requirement for issuance of visa by the country of destination. A copy of the medical certificate shall be submitted to the POEA.

V. Pre-Employment and Pre-Departure Orientation Seminar (PEOS and PDOS). All Direct-Hire OFWs are required to undergo Pre-Employment Orientation Seminar (PEOS) and Pre-Departure Orientations Seminar (PDOS), Comprehensive Pre-Departure Orientation Program and submit their Certificates as part of the documentary requirements in their registration a copy of the certificates for completing the said seminars. However, OFWs with previous legal deployment and can present their valid Certificates of completion of the said seminars and will be returning to the same jobsite shall be exempted from this requirement.

VI. Documentary Requirements for Registration of Overseas Filipino Workers Hired by Employers who are Exempted from the Ban on Direct Hiring. Pursuant to Section 125 of 2016 Revised POEA Rules, the Direct-Hire OFWs hired by those employers exempted from the ban on direct hiring may be registered by the Administration upon submission of the following documents to the Direct Hire Assistance Division:

- a. For Professional and Skilled Workers
 1. Verified/authenticated original employment contract signed on each page by the employer or the authorized representative containing terms and

conditions which are over and above the POEA employment minimum standards with the company profile, business license/commercial registration of the employer;

2. Passport valid at least six (6) months before the date of intended departure;
3. Valid and appropriate visa or work permit;
4. Certificate of medical fitness to work from a DOH-accredited medical clinic for OFWs;
5. Proof of certificate of insurance coverage covering at least the benefits provided under Section 37-A of RA 8042 as amended;
6. Notarized statement by the worker on how the employment was secured, attaching the photocopy of the employer's passport/ID and contact details and,
7. Certificate of attendance to the Pre-Employment Orientation Seminar (PEOS) and Pre-Departure Orientation Seminar (PDOS) conducted by OWWA

b. For Domestic Workers under *I. Coverage a., c., and d.1* of this Guidelines

1. Employment contract duly signed by the employer and worker and duly verified/authenticated and endorsed by the Philippine Overseas Labor Office (POLO) or by the Philippine Embassy which has the jurisdiction over the jobsite;
2. Passport valid at least six (6) months before the date of intended departure;
3. Valid and appropriate visa or work permit;
4. Certificate of medical fitness to work from a DOH-accredited medical clinic for OFWs;
5. Proof of certificate of insurance coverage covering at least the benefits provided under Section 37-A of RA 8042 as amended;
6. TESDA Skill Certification equivalent to National Certificate II (NCII) or higher;
7. Notarized statement by the worker on how the employment was secured, attaching the photocopy of the employer's passport/ID and contact details;
8. Certificate of attendance to Pre-Employment Orientation Seminar (PEOS); and
9. Pre-Departure Orientation Seminar (PDOS) and Comprehensive Pre-Departure Education Program (CPDEP);

VII. Procedure

The documentation of Direct-Hire OFWs shall be managed by the Direct Hire Assistance Division (DHAD) under the Pre-Employment Services Office. Workers with employers who do not belong to the exempted category shall undergo the following procedure and the DHAD shall:

- a. Receive the application to process as Direct Hire and evaluate requirements for documentation from the Direct-Hired OFW and inform the worker if the employer may be allowed to directly-hire workers;

- b. If the employer may be allowed, evaluate the received application and completeness of the documents;
- c. Recommend the issuance of a clearance by the Administrator;
- d. If the Clearance is granted, the following steps shall follow:
 1. DHAD shall inform the worker to proceed to the DHAD and the DHAD authorized officer shall approve/sign the employment contract;
 2. Issuance of an OFW Info Sheet to be filled-up by the Direct-Hire OFW;
 3. Encoding relevant information of Direct-Hire OFW into the Direct-Hire E-Processing System;
 4. Endorsement for assessment of appropriate fees for POEA Processing; and Overseas Workers Welfare Administration (OWWA); PhilHealth, Pag-IBIG Fund and Philhealth contributions and the worker pays to the authorized cashier for the release of the OEC to the Direct-Hire OFW applicant whose employer is deemed exempted from the ban on direct hire;
 5. Endorsement of processed records of Direct-Hire OFWs to the POEA-Central Records Division for storage after the period of retention of the OFW records.

VIII. Fees and Costs.

- a. *Cost to the Employer.* The following fees and costs shall be paid by the employer:
 1. Visa, including the stamping fee;
 2. Work permit and resident permit;
 3. Round trip airfare or offsetting benefits;
 4. Transportation from the airport to the jobsite;
 5. POEA processing fee;
 6. OWWA membership fee; and
 7. Insurance coverage.

- b. *Cost to the Worker.* The worker shall shoulder the following documentation costs for his/her overseas employment as well as his/her membership to social protection program of the government:
 1. Passport;
 2. NBI/Police Clearance;
 3. NSO authenticated birth certificate;
 4. Transcript of Records and diploma issued by the school, certified by CHED and authenticated by the DFA;
 5. Professional license issued by the PRC, authenticated by DFA;
 6. Certificate of competency issued by TESDA or other competent certifying body for the job applied for;
 7. DOH prescribed medical/health examination based on the host country Medical protocol; and
 8. Membership with PhilHealth, Pag-IBIG Fund and Social Security System.

VIII. Non-Exemption for Employers Accredited with a licensed Philippine Recruitment Agency (PRA). Foreign employers with previous or current

accreditation with any licensed Philippine recruitment agencies shall not be allowed to directly hire workers. Employers with previous accreditation with PRAs may be allowed to directly hire workers after the lapse of one (1) year from the cancellation/revocation/expiration of its accreditation or registration with a PRA.


IX. Registration at the POEA Main Office and the Regional Centers and Units.

The registration of Direct-Hire OFWs shall be carried out at the POEA Main Office and its Regional Centers and Units. The Regional Centers shall course their requests to the Administrator for Clearance for Direct Hiring through the Regional and Overseas Coordinating Office.

X. Effectivity

All previous issuances that are inconsistent with the provision of this Memorandum Circular are hereby modified and/or amended accordingly.

This Circular shall be effective fifteen (15) days after publication in a newspaper of general circulation and filing with the Office of the National Administrative Register.


BERNARD P. OLALIA
Administrator