

PRE-ARRANGED EMPLOYMENT VISA

CID LAW INSTRUCTIONS NO. 15, March 04, 1988

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This amends Law Instructions No. 8. (See p.)

1. Pre-Arranged Employment Visa shall be issued only to persons who fulfill the requirements of the Immigration Act, Sections 9(g) and 20(a), as follows:

"SECTION 9. Aliens departing from any place outside the Philippines, who are otherwise admissible and who qualify within one of the following categories, may be admitted as nonimmigrants.

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"(g) An alien coming to prearranged employment, for whom the issuance of a visa has been authorized in accordance with Section Twenty of this Act, and his wife, and his unmarried children under twenty-one years of age, if accompanying him or if following to join him within a period of six months from the date of his admission into the Philippines as a non-immigrant under this paragraph. (As amended by Rep. Act No. 503).

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"Section 20(a) A passport visa for non-immigrant referred to in Section 9 (g) of this Act who is coming to prearranged employment shall not be issued by a Consular Officer until the Consular Officers shall have received authorization for the issuance of the visa. Such authorization shall be given only on petition filed within the Commissioner of Immigration establishing that no person can be found in the Philippines willing and competent to perform the labor or service for which the non-immigrant is desired and that the non-immigrant's admission would be beneficial to the public interest. The petition shall be made under oath in the form and manner prescribed by regulations, by the prospective employer or his representative. The petition shall state fully the nature of the labor service for which the non-immigrant is desired, the probable length of time for which he is to be engaged, the wages and other compensation which he is to receive, the reason why a person in the Philippines cannot be engaged to perform the labor or service for which the non-immigrant is desired and why the non-immigrant's admission would be beneficial to the public interest. The petition shall be accompanied by a certified copy of any written contract or agreement entered into for the immigrant's service and shall contain such additional information as may be deemed material. Substantiation of all the allegations made in the petition shall be required and the allegations that no person can be found in the Philippines willing and competent to perform the labor or service for which the non-immigrant is desired and that the non-immigrant's admission would be beneficial to the public interest shall be established beyond doubt by convincing and satisfactory evidence."

2. A petition for pre-arranged employment visa shall state the matters enumerated in the Immigration Act Section 20(a) and shall be supported by the following documents establishing that a) no person can be found in the Philippines willing and competent to perform the labor or service for which the non-immigrant is desired and that b) the non-immigrant's admission would be beneficial to the public interest.

- a. Letter request from the petitioning company;
- b. Application form completely filled-up by petitioning company and notarized;

- c. Bio-data of the employee;
- d. Certified copy of any written contract or agreement entered into for the immigrants service;
- e. Articles of incorporation of the petitioning company;
- f. SEC Certificate of Registration of the petitioning company;
- g. Alien employment permit from Department of Labor and Employment;
- h. Affidavit of support/guaranty for duration of employment;
- i. Income Tax Return of the petitioner, if engaged in business;
- j. Xerox copy of the passport of the employee;
- k. Such other documents as may be deemed necessary and material to an adequate evaluation of the petition.

3. A petition for pre-arranged employment visa shall be filed with the Law and Investigation Division and shall be assigned to one of its members. The CID lawyer assigned shall examine the documents and shall determine whether or not the application complies with the requirements of the preceding paragraph. If the application is incomplete, the CID lawyer shall return the application and provide the applicant with a checklist of the additional documents to be submitted. If the application is complete, the CID lawyer shall issue a certificate to that effect and transmit the application to the Board of Special Inquiry (BSI).

4. A petition for pre-arranged employment visa shall be raffled among the three (3) BSI and shall be calendared for hearing in open court at the earliest available date and time. The BSI shall give the petitioner at least three (3) days notice of the scheduled hearing. No postponement shall be granted. The BSI shall hear a petition continuously within a period not exceeding two (2) days.

The petitioner may be represented by counsel of his own choice who shall propound questions to the witnesses in the presence of the member of the CID Law and Investigation Division assigned to the case. The CID lawyer may propound additional questions to the witnesses to ensure compliance with the requirements of the law and implementing instructions.

The petitioner shall present not more than two (2) witnesses in support of its petition. Any third party may file an opposition to the petition which likewise shall be heard in open court. The BSI shall submit its recommendations to the Board of Commissioners not later than three (3) days following the termination of the hearings in open court.

5. If the Board of Commissioners finds that the petition complies with the requirements of Sec. 20(a) and that the petitioner has established the facts entitling him to the authorization, the Board shall grant the petition and the Commissioner shall so inform the petitioner and promptly transmit the authorization to the consular office at which the non-immigrant is to apply for a visa. (Immigration Act, Sec. 20(b)).

If the alien was previously admitted in the Philippines under a different class of non-immigrants, a petition for change of category shall likewise be filed showing clearly the facts which warrant the grant. In such case, the Commissioner may waive the requirement that the pre-arranged employment visa be obtained at the consular office abroad.

6. The Board of Commissioners shall meet on the first and third Mondays of each month to deliberate on the petition for pre-arranged employment visa. Petitions which have been duly heard by the BSI and for which it has already issued recommendations, shall be calendared for the immediately succeeding board meetings.

The pre-arranged employment visa shall be granted for a period co- terminous with the employment contract but in no case to exceed two (2) years.

In the event that the decision of the Board of Commissioners is adverse to the petitioner, he may file a motion for reconsideration within five (5) days from notice of the decision.

7. An application for extension of a prearranged employment visa shall be filed with the Law and Investigation Division at least one month before the expiration of the authorized stay. The application shall set forth such facts as may be necessary to show that the basis for the grant of the original petition continue to exist.

The application shall be supported by the following documents:

- a. Letter request from the petitioning company,
- b. Application form completely filled-up by petitioning company and notarized;
- c. Alien employment permit from Department of Labor and Employment valid for the extension requested;
- d. Renewal of Employment Contract if the same has expired;
- e. Income Tax Return of the petitioning company;
- f. Proof that the taxes due on the compensation of the employee have been duly paid;
- g. Xerox copy of the passport of the employee.

8. An application for extension filed with the Law and Investigation Division shall be assigned to one of its members for examination referred to in paragraph 3, above. After the CID lawyer has certified that the application is complete, the application shall be raffled among the three (3) BSI which shall then observe the same procedure outlines in paragraphs 4 and 5, above, except that the BSI shall submit its recommendations to the Board of Commissioners not later than the day following the termination of the hearings in open court.

The Board of Commissioners shall observe the procedure outlined in paragraph 6, with respect to the disposition of an application for extension, except that no application for extension of a pre-arranged employment visa shall be granted at one time for more than one (1) year, or beyond the effectivity of the employment contract whichever comes first. The total period of the authorized stay of a pre-arranged employee shall not exceed five (5) years except in every exceptional cases where it is clearly shown that a) the skills and services of the pre-arranged employee are so unique and specialized such as will require additional time for the training of the Filipino understudies and b) the operations of the petitioner substantially benefit the public interest. In these exceptional cases a pre-arranged employee may be granted additional yearly extensions but not to exceed five (5) years.

Adopted: 4 March 1988

(SGD.) MIRIAM DEFENSOR SANTIAGO
Commissioner

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