

REVISED JOINT CIRCULAR ENUNCIATING POLICY GUIDELINES ON THE EMPLOYMENT OF FOREIGN NATIONALS IN THE HOTEL/RESORT/RESTAURANT SECTORS

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The Revised Joint Circular among the Departments of Tourism, Labor and Employment, and the Bureau of Immigration Enunciating Policy Guidelines on the Employment of Foreign Nationals in the Hotel, Resort and Restaurant sectors signed last 15 December 1988 is hereby amended to read as follows:

SECTION 1. Positions Open to Foreign Nationals — To prevent unwarranted employment of foreign nationals, herein defined as citizens of other countries who are not permanent residents of the Philippines, and to promote the upward career mobility of Filipinos, it is hereby declared that the employment of foreign nationals by any existing hotel/resort/restaurant in this country shall be subject to the following conditions:

- Hotels/Resorts

- Only hotels/resorts duly licensed by the Department of Tourism shall be allowed to engage the services of foreign nationals.

- Foreign nationals may occupy a maximum of four (4) managerial positions.

- Hotels or resorts yet to be constructed may employ as many foreign nationals as may be required during the stage of construction and up to six (6) months after opening of the hotel to the public.

- The services of foreign nationals may be availed of during special occasions/events such as food festivals; Provided, however, that the service contract shall be limited to a period of three (3) months renewable for a maximum period of another three (3) months.

- Specialty Restaurants

- Only specialty restaurants duly accredited with the Department of Tourism as well as those forming part of the integrated operation of licensed hotels/resorts may be allowed to engage the services of foreign nationals.

- A specialty restaurant with a minimum 75-seat capacity shall be allowed to have one (1) foreign Specialty Chef or Sous Chef. In the initial stage of operation of a specialty restaurant and for a maximum period of two (2) years, three (3) more foreign specialty chefs of sous chefs may be allowed.

- A specialty restaurant with a seating capacity of 500 or more may be allowed to employ three (3) additional foreign nationals in any of the following positions:

- a) As specialty chef(s);
- b) As sous chef(s);
- c) As food service manager(s); or
- d) A combination of the above.

- A foreign national may be allowed to replace a Filipino citizen who is assigned to work abroad on a training

program and who is presently occupying one of the positions that can be filled by foreign nationals under this Circular; Provided, however, that in no case shall the foreign national be allowed to stay beyond two (2) years or the duration of the training of the Filipino, whichever comes first.

SECTION 2. Procedures in Issuance of Visa/Permits — For purposes of this Circular, the following are the procedures in the issuance of the visa/permits:

a. No foreign national shall be admitted into the Philippines for employment in any hotel/resort/restaurant unless he secures a pre-arranged employment visa from the appropriate Philippine Embassy or Consulate or other designated visa-issuing office nearest his port of origin, which shall not be issued for positions other than those allowed herein. If, however, the foreign national has already been admitted into the country as a temporary visitor or under any other admission category, he may secure a change of status to pre-arranged employment visa from the Bureau of Immigration.

In the grant of the appropriate visa, the Department of Foreign Affairs and the Bureau of Immigration shall generally endeavor to determine non-work connected qualifications of the applicant.

b. As a prerequisite to the issuance of the pre-arranged employment visa or change of status, the foreign national applicant shall secure an Alien Employment Permit from the Department of Labor and Employment which shall grant the same on the basis of non-availability of the services of local expertise for a vacancy, the undertaking of an understudy training program as appropriate and in compliance with its other policy guidelines.

SECTION 3. Disciplinary/Penal Provisions — Any person, natural or juridical who shall violate or cause another to violate any of the provisions of this Circular shall be imposed any of the following penalties:

a. In accordance with Article 289 of the Labor Code, as amended, a fine of not less than One Thousand Pesos (P1,000.00) nor more than Ten Thousand Pesos (P10,000.00), or imprisonment of not less than three (3) months nor more than three (3) years, or both such fine and imprisonment at the discretion of the court;

b. Non-renewal of the Alien Employment Permit and/or visa;

c. Suspension or revocation of the Alien Employment Permit;

d. Deportation.

SECTION 4. Separability Clause — The provisions of this Circular are hereby declared to be separable, and in the event any one or more of such provisions are held unconstitutional, they shall not affect the validity of other provisions.

SECTION 5. Repealing Clause — Except as expressly provided by this Joint Circular, all laws or parts thereof inconsistent with any provision of this Circular shall be deemed repealed and/or modified accordingly.

SECTION 6. Effectivity — This Agreement shall take effect immediately.

Adopted: 13 Jan. 1992

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