RULES AND REGULATIONS GOVERNING OVERSEAS EMPLOYMENT

POEA, May 31, 1991

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BOOK I
General Policy

RULE I
General Statement of Policy
It shall be the policy of the Administration to:

a. Promote and develop overseas employment opportunities in cooperation with relevant government institutions and the private sector;

b. Establish the environment conducive to the continued operations of legitimate, responsible and professional private agencies;

c. Afford protection to Filipino workers and their families, promote their interests and safeguard their welfare; and

d. Develop and implement programs for the effective monitoring of returning contract workers promoting their re-training and re-employment or their smooth re- integration into the mainstream of the national economy.

RULE II
Definition of Terms

For purposes of the Rules, the following terms are defined as follows:

a. Administration — the Philippine Overseas Employment Administration (POEA).

b. Administrator — the Administrator of the POEA.

c. Agency — a private employment or a manning agency as defined herein.

d. Allottee — any person named or designated by the overseas contract workers as the recipient of his remittance to the Philippines.

e. Balik-Manggagawa (Vacationing Worker) — a landbased contract worker who is on a vacation or on an emergency leave and who is returning to the same worksite to resume his employment.

f. Beneficiary — the person/s to whom compensation benefits due under an overseas employment contract are payable by operation of law or those to whom proceeds of a life or accident insurance are likewise payable.

g. Center — the POEA Regional Center in Cebu and such other regional centers as may hereinafter be established.

h. Code — the Labor Code of the Philippines as amended.

i. Collective Bargaining Agreement — the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work and all other terms and conditions of employment in a bargaining unit, including mandatory provisions for grievance and arbitration machineries.

j. Contract Worker — any person working or who has worked overseas under a valid employment contract.

k. Department — the Department of Labor and Employment (DOLE).

l. Directorate — the executive body of the Administration composed of its Administrator, Deputy Administrators and Directors as defined herein.

m. Director-LRO — the Director of the Licensing and Regulation Office.

n. Director-PSO — The Director of the Pre-Employment Services Office.

o. Director-AO — the Director of the Adjudication Office.

p. Director-WEO — the Director of the Welfare and Employment Office.

q. Employer — any person, partnership or corporation, whether local or foreign, directly engaging the services of Filipino workers overseas.

r. Foreign Exchange (Forex) Earnings — the earnings in terms of US dollars (US$) or any other acceptable foreign currency of overseas workers and agencies.

s. Governing Board — the policy-making body of the Administration.

t. Government-to-Government Hiring — recruitment and placement of Filipino workers by foreign government ministries or instrumentalities through the Administration.

u. Job Fair — an activity conducted outside of an agency's authorized business address whereby applicants are oriented on employment opportunities and benefits provided by foreign principals and employers.

v. License — a document issued by the Secretary authorizing a persons, partnership or corporation to operate a private employment agency or a manning agency.

w. Manning Agency — any person, partnership or corporation duly licensed by the Secretary to recruit seafarers for vessel plying international waters and for related maritime activities.

x. Manning Agreement — an agreement entered into by and between the principal and the licensed manning agency defining the responsibilities of both parties with respect to the employment of ship personnel for their enrolled vessels.

y. Commission — the National Labor Relations Commission.

z. Name Hire — a worker who is able to secure employment overseas on his own without the assistance or participation of any agency.

aa. Non-Licensee — any person, partnership or corporation who has not been issued a valid license to engage in recruitment and placement, or whose license has been suspended, revoked or canceled.

bb. One-stop Processing Center — an inter-agency servicing body designed to facilitate the documentation of contract workers.

cc. Overseas Employment — employment of a worker outside the Philippines including employment on board vessels plying international waters, covered by a valid employment contract.

dd. Philippine Shipping Company — any person, partnership or corporation registered under the laws of the Philippines and duly accredited to engage in overseas shipping activities by the Maritime Industry Authority (MARINA).

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ee. Philippine Registered Vessel — vessels duly registered in the Philippines.

ff. Placement Fee — the amount charged by a private employment agency from a worker for its services in securing employment.

gg. Principal — any foreign person, partnership or corporation hiring Filipino workers through an agency.

hh. Private Employment Agency — any person, partnership or corporation engaged in the recruitment and placement of workers for a fee which is charged, directly or indirectly, from the workers or employers or both.

ii. Recruitment Agreement — the agreement entered into by and between the foreign principal and the licensed private employment agency defining the responsibilities of both parties with respect to the employment of workers for their overseas projects.

jj. Recruitment and Placement — any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers and incudes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not; provided, that any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

kk. Regional Director — the head of the Regional Offices of the Department.

ll. Regional Extension Unit — the field offices of the Administration in designated regions in the Philippines.

mm. Regional Labor Center (RLC) — the regional field office of the Administration.

nn. Regional Office — the regional office of the Department of Labor and Employment.

oo. Remittance — the amount or portion of the foreign exchange earnings sent by the worker to the Philippines.

pp. Secretary — the Secretary of Labor and Employment.

qq. Service Fee — the amount charged by a licensee from its foreign employer-principal as payment for actual services rendered in relation to the recruitment and employment of workers for said principal.

rr. Valid Employment Contract — a written agreement entered into by and between the employer and/or the local agency and the overseas contract worker containing the terms and conditions of employment that are in consonance with the master employment contract as approved by the Administration.

ss. Verification — the action of labor attaché or any other officer designated by the Secretary of Labor and Employment in the Philippine Embassy or Consulate, in reviewing employment documents of Filipino nationals with the view to establish the existence of the employing company, its ability to hire workers at the prescribed rates, at desirable working conditions consistent with the standards prescribed by the Administration and the terms and conditions prevailing in the country of employment.

BOOK II
Licensing and Regulation

RULE I
Participation of the Private Sector in the
Overseas Employment Program

SECTION 1. Qualifications for Participation in the Overseas Employment Program. — Only applicants who possess the following qualifications may be permitted to participate in the overseas employment program:

a. Filipino citizens, partnerships or corporations at least seventy five percent (75%) of the authorized and voting

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capital stock of which is owned and controlled by Filipino citizens;

b. A minimum capitalization of One Million Pesos (P1,000,000.00) in case of a single proprietorship or partnership and a minimum paid-up capital of One Million Pesos (P1,000,000.00) in case of a corporation; and

c. Those not otherwise disqualified by law or these guidelines to engage in the recruitment and placement of workers for overseas employment.

SECTION 2. Disqualifications. — The following are not qualified to participate in the recruitment and placement of Filipino workers overseas:

a. Travel agencies and sales agencies of airline companies;

b. Officers or members of the Board of any corporation or members in a partnership engaged in the business of a travel agency;

c. Corporations and partnerships, when any of its officers, members of the board or partners, is also an officer, member of the board or partner of a corporation or partnership engaged in the business of a travel agency;

d. Persons, partnerships or corporations which have derogatory records such as, but not limited to overcharging of placement or documentation fees, false documentation, illegal recruitment and swindling or estafa, or those convicted of crimes involving moral turpitude;

e. Persons employed in the Department or in other government offices directly involved in the overseas employment program, and their relatives within the fourth degree of consanguinity or affinity; and

f. Persons, partners, officers and Directors of corporations whose license has been previously canceled or revoked for violation of the Labor Code, or its implementing rules, or other relevant laws, decrees, rules and regulations, and issuances.

RULE II
Issuance of License

SECTION 1. Requirements for Issuance of License. — Every applicant for license to operate a private employment agency or manning agency shall submit a written application together with the following requirements:

a. A certified copy of the Articles of Incorporation or of Partnership duly registered with the Securities and Exchange Commission (SEC), in the case of corporation or partnership or Certificate of Registration of firm or business name with the Bureau of Domestic Trade (BDT) in the case of a single proprietorship;

b. Proof of financial capacity: In the case of a single proprietorship or partnership, verified income tax returns for the past two (2) years and a bank certificate deposit of a cash deposit of P250,000.00, provided that the applicant should submit an authority to examine such bank deposit.

In the case of a newly organized corporation, submission of a bank certificate of a cash deposit of at least P250,000.00 with authority to examine the same. For an existing corporation, submission of a verified financial statement, corporate tax returns for the past two (2) years and bank certification of cash deposit of at least P250,000.00 with the corresponding authority to examine such deposit.

c. Escrow agreement in the amount of P200,000.00 with an accredited reputable banking corporation to primarily answer for valid and legal claims of recruited workers as a result of recruitment violations or money claims;

d. Clearance of all members of the Board of Directors, partner, or proprietor of the applicant agency from the National Bureau of Investigation (NBI) and other government agencies as the need may require, Fiscal's clearance

in case of persons with criminal cases; provided that where the member or partner concerned is a foreigner, clearance from his country of origin shall be acceptable;

e. Proof of marketing capability:

For land-based applicants:

An applicant with an actual principal/foreign employer to be serviced, shall at the time of application submit the following documents for evaluation:

(1) A duly executed Special Power of Attorney authenticated by the Philippine Embassy/Consulate or Labor Attache in the place employers hold their office; or

(2) A concluded service/recruitment agreement authenticated by the Philippine Embassy/Consulate, or Labor Attache in the place where the project/job site is located;

(3) An Authenticated manpower mobilization request or visa approval of not less than fifty (50) workers for deployment within a period not exceeding six (6) months from issuance of approved license;

An applicant who, at the time of application is unable to present a foreign principal/employer shall, upon compliance with all other licensing requirements as herein provided, be issued a provisional license, subject to submission of a verified undertaking to deploy at least fifty (50) workers, exclusive of direct hires, within a period not exceeding six (6) months from date of issuance of provisional license. It is understood that failure to comply with this undertaking shall result in the automatic revocation of the provisional license.

For manning applicants:

(1) A duly executed Special Power of Attorney authenticated by the Philippine Embassy/Consulate or Labor Attache in place where the vessel owners/operators/managers hold their principal office; or

(2) A duly concluded manning agreement authenticated by the Philippine Embassy/Consulate, or Labor Attache in the place where the vessel owners/operators/manager hold their principal office;

(3) A manpower mobilization request of not less than fifty (50) seafarers for deployment within a period not exceeding six (6) months from issuance of approved license;

f. A verified undertaking stating that the applicant:

(1) Shall select only medically and technically qualified recruits,

(2) Shall assume full and complete responsibility for all claims and liabilities which may arise in connection with the use of license.

(3) Shall assume joint and solidary liability with the employer for all claims and liabilities which may arise in connection with the implementation of the contract, including but not limited to payment of wages, health and disability compensation and repatriation;

(4) Shall guarantee compliance with the existing labor and social legislations of the Philippines and of the country of employment of recruited workers, and

(5) Shall assume full and complete responsibility for all acts of its officials, employees and representatives done in connection with recruitment and placement;

g. List of all officials and personnel involved in the recruitment and placement, together with their appointment, bio-data and two (2) copies of their passport size pictures;

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h. Copy of contract of lease or proof of building ownership together with office address.

SECTION 2. Action on the Application. — Within thirty (30) calendar days from receipt of application or requirements including proof of payment of a non- refundable filing fee of P5,000.00, the Administration shall evaluate pertinent documents of the applicant, inspect the offices and equipment and recommend to the Secretary the approval or denial of the application.

SECTION 3. Issuance of License. — The Administration shall recommend to the Secretary issuance of the corresponding license upon due evaluation and compliance with licensing requirements and operational standards.

SECTION 4. Payment of Fees and Posting of Bonds. — Upon approval of the application, the applicant shall pay a license fee of P30,000.00. It shall also post a cash bond of P100,000.00 and a surety bond of P50,000.00 from a bonding company acceptable to the Administration and duly accredited by the Insurance Commission. The bonds shall answer for all valid and legal claims arising from violations of the conditions for the grant and use of the license, and/or accreditation and contracts of employment. The bonds shall likewise guarantee compliance with the provisions of the Code and its implementing rules and regulations relating to recruitment and placement, the Rules of the Administration and relevant issuances of the Department and all liabilities which the Administration may impose. The surety bonds shall include the condition that notice to the principal is notice to the surety and that any judgment against the principal in connection with matters falling under POEA's jurisdiction shall be binding and conclusive on the surety. The surety bonds shall be co-terminus with the validity period of the license.

SECTION 5. Validity of License. — Every license shall be valid for at least two (2) years from the date of issuance unless sooner canceled or revoked by the Secretary or suspended by the Administration for violation of the Code and its rules and relevant decrees, orders and issuances and other rules and regulations of the Department. Such license shall be valid only at the place/s stated therein and when used by the licensed person, partnership or corporation.

SECTION 6. Non-Transferability of License. — No license shall be transferred, conveyed or assigned to any person, partnership or corporation. It shall not be used directly or indirectly by any person, partnership or corporation other than the one in whose favor it was issued. Violation shall cause automatic revocation of license.

In case of death of the sole proprietor, and in order to prevent disruption of operation and so as not to prejudice the interest of legitimate heirs, the licensed single proprietorship may be allowed to continue only for the purpose of winding up its business operation.

SECTION 7. Change of Ownership/Relationship of Single Proprietorship or Partnership. — Transfer or change of ownership of a single proprietorship licensed to engage in overseas employment shall cause the automatic revocation of the license. The new owner shall be required to apply for a license in accordance with these Rules.

A change in the relationship of the partners in a partnership duly licensed to engage in overseas employment which materially interrupts the course of the business or results in the actual dissolution of the partnership shall likewise cause the automatic revocation of the license.

SECTION 8. Upgrading of Single Proprietorships or Partnerships. — Licensees holders which are single proprietorships or partnerships may, subject to the guidelines of the Administration, convert into corporation for purposes of upgrading or raising their capabilities to respond adequately to developments/changes in the international labor market and to enable them to better comply with their responsibilities arising from the recruitment and deployment of workers overseas.

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The approval of merger, consolidation or upgrading shall automatically revoke or cancel the licenses of the single proprietorships, partnerships or corporations so merged, consolidated or upgraded.

SECTION 9. Change of Directors of Corporation. — Every change in the composition of the Board of Directors of a corporation licensed to participate in overseas employment shall be registered with the Administration within thirty (30) calendar days from the date the change was decided or approved. The corporation shall be required to submit to the Administration the Minutes of Proceedings duly certified by the SEC, the bio-data and clearances of the new members of the Board from the government agencies identified in Section 1 (d) of this Rule.

SECTION 10. Change of Other Officers and Personnel. — Every change, termination or appointment of officers, representatives and personnel shall be registered with the Administration within thirty (30) calendar days from the date of such change.

The Administration reserves the right to deny the appointment of officers and employees who were directly involved in recruitment irregularities.

SECTION 11. Appointment of Representatives. — Every appointment of representatives or agents of licensed agency shall be subject to prior approval or authority of the Administration.

The approval may be issued upon submission of or compliance with the following requirements:

a. Proposed appointment or special power of attorney;

b. Clearances of the proposed representative or agent from NBI;

c. A sworn or verified statement by the designating or appointing person or company assuming full responsibility for all acts of the agent or representative done in connection with the recruitment and placement of workers.

Approval by the Administration of the appointment or designation does not authorize the agent or representative to establish a branch or extension office of the licensed agency represented.

Any revocation or amendment in the appointment should be communicated to the Administration. Otherwise, the designation or appointment shall be deemed as not revoked or amended.

SECTION 12. Publication of Change of Directors/Other Officers and Personnel/Revocation of Amendment of Appointment of Representatives. — In addition to the requirement of registration with and submission to the Administration, every change in the membership of the Board of Directors, resignation/termination of other officers and personnel, revocation or amendment of appointment of representatives shall be published at least once in a newspaper of general circulation, in order to bind third parties. Proof of such publication shall be submitted to the Administration.

SECTION 13. Transfer of Business Address and Studio. — Any transfer of business address shall be effected only with prior authority or approval of the Administration. The approval shall be issued only upon formal notice of the intention to transfer with the following attachments:

a. Copy of the company's notice to the BDT or the SEC on the transfer of business address;

b. In the case of corporation, a Board Resolution duly registered with the SEC authorizing the transfer of business address;

c. In the case of a single proprietorship, a copy of the BDT's acknowledgment of the notice to transfer; and

d. Copy of the contract of lease or proof of building ownership.

The new office space shall be subject to the normal ocular inspection procedures by duly authorized representatives of the Administration.

A notice to the public of the new address shall be published in a newspaper of general circulation.

SECTION 14. Establishment of Executive Office. — The establishment of an executive office outside of the registered address shall be effected only with prior approval or authority of the Administration. The approval may be issued upon submission of an affidavit of undertaking to the effect that no recruitment activity whatsoever shall be conducted thereat and that the agency has a valid contract of lease or building ownership.

SECTION 15. Establishment of Branch and Extension Offices. — Branch and extension offices may be established in areas approved by the Secretary, subject to implementing guidelines.

SECTION 16. Conduct of Recruitment Outside of Registered Office, Branch or Extension Office. — No licensed agency shall conduct any provincial recruitment, job fairs or recruitment activities of any form outside of the address stated in the license, acknowledged Branch or Extension Office or without first securing prior authority from the Administration or the Center.

SECTION 17. Renewal of License. — An agency shall submit an application for the renewal thereof to the Administration. Such application shall be supported by the following documents:

a. Proof of foreign exchange earnings issued by the Central Bank;

b. Surety bond duly renewed or revalidated;

c. Escrow agreement in the amount of P200,000.00 with an accredited reputable banking corporation to primarily answer for valid and legal claims of recruited workers as a result of recruitment violations or money claims;

d. Replenishment of the cash bond in case such or any part thereof is garnished;

e. Proof of financial capacity such as but not limited to verified financial statements for the past two (2) years, verified corporate or individual tax returns with confirmation receipts, and compliance with capitalization requirements and infusion thereof as the case may be, as certified by the Securities and Exchange Commission;

f. Summary of deployment reports during the validity of the license sought to be renewed;

g. Summary of payroll reports in case of contractors and manning agencies during the validity of the license sought to be renewed; and

h. Other requirements as may be imposed by the Administration.

SECTION 18. Non-expiration of License. — Where the license holder has made timely and sufficient application for renewal, the existing license shall not expire until the application shall have been finally determined by the Administration.

SECTION 19. Action on Renewal of License. — Within thirty (30) calendar days from receipt of the application for renewal the Administration shall undertake evaluation and inspection and thereafter recommend to the Secretary the grant or denial of the application.

SECTION 20. Failure to Renew. — Any agency which fails to obtain a renewal of its license within thirty (30) calendar days from expiration thereof, shall be immediately deemed delisted and disallowed from conducting recruitment and placement.

SECTION 21. Denial of Renewal of Licenses. Licenses of agencies which fail to conclude a recruitment or

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manning agreement and/or undertake minimum levels of worker deployment and foreign exchange generation or those which fail to meet the minimum operational standards and recruitments set by the Administration, shall not be renewed.

SECTION 22. When to Consider Cash Bond/Deposit in Escrow Garnished. — As soon as an Order of Garnishment is served upon the Administration/Bank, and the same is correspondingly earmarked, the cash bond/deposit in escrow of an agency shall no longer be considered sufficient. The Administration shall forthwith serve upon the agency a notice to replenish.

SECTION 23. Replenishment of Cash or Surety Bonds/Deposit in Escrow. — Within fifteen (15) calendar days from date of receipt of notice from the Administration that the bonds/deposit in escrow, or any part thereof had been garnished, the agency shall replenish the same. Failure to replenish such bonds/deposit in escrow within the said period shall cause the suspension of the license.

SECTION 24. Refund of Cash Bond/Release of Deposit in Escrow. — A licensed agency which voluntarily surrenders its license shall be entitled to the refund of its deposited cash bond and release of the deposit in escrow, only after posting a surety bond of similar amount valid for four (4) years from expiration of license.

SECTION 25. Evaluation of Performance of Agencies. — The Administration shall undertake the annual evaluation and rating of the performance of licensed agencies to determine the merits of their continued participation in the overseas employment program taking into consideration compliance with laws and regulations and such other criteria as it may deem proper.

SECTION 26. Classification and Ranking. — The Administration may undertake the classification and ranking of agencies. In recognition of exemplary performance, it may undertake schemes for incentives and rewards.

RULE III
Registration of Philippine
Registered Vessels

SECTION 1. Registration of Philippine Shipping Companies. — Philippine shipping companies which own/mange/operate Philippine registered vessels plying international waters shall submit the following documents for special registration:

a. MARINA Certificate of Accreditation;

b. A certified copy of the Articles of Incorporation duly registered with the Securities and Exchange Commission, in the case of corporation or partnership or certificate of registration of firm or business name with the Bureau of Domestic Trade in the case of single proprietorship;

c. Surety bond P200,000.00 from reputable bonding company duly accredited by the Insurance Commission which validity should be co-terminus with the validity of registration;

d. Copy of Certificate of Approval of the Bareboat Charter;

e. Philippine Coast Guard Certificate of Registration.

SECTION 2. Validity Period of Special Registration. — Special registration issued to Philippine shipping companies shall be valid for two (2) years from the date of issuance unless sooner cancelled, revoked or suspended by the Administration for violation of the Code or its implementing rules and other regulations of the Department. Such registration shall be valid only at the place stated therein and when used by the authorized person, partnership or corporation.

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SECTION 3. Requisites for Renewal. — The Philippine company shall submit an application for the renewal thereof to the Administration. Such application shall be supported by the following documents:

a. Renewed surety bond in the amount of P200,000.00;

b. Copy of MARINA Certificate of Accreditation.

RULE IV
Inspection of Agencies

SECTION 1. Inspection Before Licensing. — Before issuance or renewal of a license, the Administration shall conduct an inspection of the premises and pertinent documents of the applicant.

SECTION 2. Inspection of Agencies. — All agencies shall be subject to periodic inspection of offices, studios or pre-departure orientation seminar (PDOS) venues by the Administration to determine compliance with existing rules and regulations. Inspection shall likewise be conducted by the Administration in case of transfer of office, studio, PDOS venue, or establishment of a branch or extension office, executive office, additional office or upon complaint or report of violation of existing rules and regulations.

SECTION 3. Authority To Inspect. — Inspection shall be undertaken by the Administration, thru a duly designated Inspector.

An authority to inspect shall be issued for presentation to the agency before inspection, stating in detail the purpose and subject of inspection.

SECTION 4. Subject of Inspection. — Depending on the purpose of inspection, the Administrator or his duly authorized representative may inspect the premises and require the presentation of necessary documents, records and books of accounts of the agency and examine the same.

SECTION 5. Inspection Procedures. —

a. Inspection shall be conducted by a team of at least two (2) duly authorized persons during office hours, unless otherwise authorized in accordance with Section 3 of this Rule;

b. Inspection shall be conducted in the presence of the manager of the office or any responsible office personnel who shall be furnished with a copy of the inspection report immediately after inspection; and,

c. Inspection reports shall be submitted to the Administration within twenty-four (24) hours after the inspection.

SECTION 6. Violations Found in the Course of Inspection. — Violations found in the course of inspection such as non-compliance with the Administration's rules, issuances, directives, etc. may be grounds for the imposition of appropriate sanction or for the denial of application for issuance and renewal of license. A copy of the results of inspection shall be endorsed to the appropriate unit for the conduct of necessary proceedings.

RULE V
Placement Fees and
Documentation Costs

SECTION 1. Fees Chargeable Against Principals. — Agencies shall charge from their principals a service or manning fee to cover services rendered in the recruitment, documentation and placement of workers.

SECTION 2. Fees/Costs Chargeable from Workers. —

a. Private employment agencies may charge placement fees as may be authorized by the Secretary from a hired

worker to cover costs of placement and documentation services such as trade or skill testing, medical examination, passport, visa, clearances, inoculation, airport terminal fee, notarials, among others.

The above charge shall be collected from a hired worker only after he has signed the employment contract and shall be covered by receipts clearly showing the amount paid.

b. Manning agencies shall not charge any fee from seafarer-applicants for its recruitment and placement services.

SECTION 3. Prohibition on Charging of Other Fees. — No other fees or charges including processing fees shall be imposed against any worker, except when authorized by law.

SECTION 4. Seafarers' Welfare Fund Contribution. — Every seafarer processed for deployment abroad shall contribute to the seafarers' Welfare Fund.

SECTION 5. Charges Deductible from Fees by Withdrawing Workers. — In case of withdrawal of the worker within one hundred twenty (120) calendar days from the signing of the employment contract, the agency shall refund the amount paid by him after deducting such actual expenses incurred in the documentation of the worker as may be supported by receipts.

RULE VI
Advertisement for Overseas
Job Vacancies

SECTION 1. Advertisements For Publication or Broadcasts of Job Vacancies of Accredited Foreign Principal or Project on Print, Radio or Television. — Actual job vacancies for accredited foreign principal/project with job orders duly approved by the Administration shall be allowed for advertisement upon accreditation and/or approval of job order. The advertisement shall indicate the following basic information:

a. Name, address and POEA license number of the agency;

b. Name and/or accreditation number of the project and/or principal and worksite; and

c. Skill categories and qualification standards.

SECTION 2. Advertisement for Manpower Pooling by Agencies. — Agencies desiring to generate qualified applicants for additional manpower requirements of an accredited principal or project not covered by duly approved job order by the Administration may advertise only upon approval by the Administration.

Agencies desiring to generate qualified applicants for a prospective principal/project may advertise only for highly skilled landbased categories and marine officers and upon prior approval of the Administration.

The advertisement shall indicate that the announcement is for manpower pooling only and that no fee shall be collected from the applicants. The following information shall be reflected in the advertisement:

a. Name, address and POEA license number of the agency;

b. Worksite of prospective principal/project;

c. Skill categories and qualification standards.

SECTION 3. Press Releases on Recruitment. — For purposes of this Rule, press and media releases, whether on print, radio or television negotiations with foreign principals involving overseas job openings, shall be considered as advertisement, and therefore, shall be subject to monitoring and regulation.

Subsequent publication of a previously approved advertisement or a portion thereof, in another form of media

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release shall no longer require another POEA's approval provided that said publication is undertaken within a period of one month from the date of POEA approval.

SECTION 4. Sanctions. — False and deceptive advertisement published and aired by agencies including, but not limited to those published not in accordance with the prescribed guidelines shall be considered as violation and shall, therefore, be a valid ground for the cancellation of accreditation of principal/project and/or for the suspension and/or cancellation of license.

SECTION 5. Foreign Advertisers for Overseas Job Vacancies. — Foreign principals/employers who wish to advertise job vacancies in countries outside the Philippines using Philippine print media, broadcast or television may do so only through a POEA-licensed agency or through the Administration.

SECTION 6. Advertisement of Multinationals and Transnationals Based in the Philippines. — Multinationals and transnationals may advertise for overseas employment through licensed agencies.

RULE VII
Trade Test and Medical Examination
for Overseas Employment

SECTION 1. When To Conduct Trade Tests. — Trade test for workers for overseas employment shall be conducted only after the agency and/or its principal has interviewed the worker and the latter has pre-qualified for an existing overseas position duly covered by an approved job order by the Administration.

SECTION 2. Scope of Trade Tests. — The agency shall ensure that unless otherwise stated in the agency trade test referral slip, the pre-employment test shall only be for the skill category that the worker has applied for.

SECTION 3. When to Conduct the Medical Examination. — Medical examination of workers for overseas employment shall be conducted only after the agency and/or its principal shall have interviewed and trade tested or have pre-qualified the worker for an existing overseas position duly covered by an approved job order.

RULE VIII
Mandatory Personal Accident and
Life Insurance, War Risk
Insurance and War Premium Pay

SECTION 1. Mandatory Personal Accident and Life Insurance Requirement. — All overseas landbased workers shall be provided both life and personal accident insurance. The amount of life insurance coverage shall be P50,000.00 maximum face value; provided, however, that if death is due to accident, murder or assault, an equal amount of P50,000.00 insurance coverage shall be due in additional to the amount of life insurance. This mandatory life and personal accident insurance shall be provided by the employer without any cost to the worker. The personal accident insurance shall cover accidental death, dismemberment and disability; provided, however, that should the subsisting insurance package provide for a superior coverage, the same shall be deemed compliance with this requirement.

SECTION 2. Identification of War Risk Areas. — In order to protect landbased workers and seafarers from the hazards of war or war-like operations, the Administration shall identify and declare specific land areas, territorial waters or portions of the high seas as war risk areas.

SECTION 3. Mandatory War Risk Insurance for Landbased Workers. — All landbased workers bound for areas declared by the Administration as war risk areas shall, in addition to the mandatory personal accident and life insurance, be provided with war risk insurance of not less than P100,000.00. This war risk insurance shall be

provided by the employer at no cost to the worker.

SECTION 4. Duration of Insurance Coverage. The minimum coverage shall take effect upon payment of the premium and shall be extended worldwide, on and off the job, for the duration of the worker's contract plus sixty (60) calendar days after termination of the contract of employment; provided that in no case shall the duration of the insurance coverage be less than one year.

SECTION 5. War Risk Premium Pay for Seafarers. — Seafarers who sail on a vessel into areas declared by the Administration as war risk trading areas shall be entitled to premium pay the schedule of which shall be determined by the Administration.

SECTION 6. Benefits And Compensation Awarded To Beneficiary. — Proceeds or benefits from the mandatory life, personal accident or war risk insurance shall be awarded only to the designated beneficiaries as defined in these Rules.

RULE IX
Departure of Contract Workers

SECTION 1. Labor Assistance Center (LAC). — A Labor Assistance Center shall be established at international airports and other exit points in the country which may be used by contract workers in proceeding to their overseas jobsite. It shall assist and facilitate the deployment and reception of overseas contract workers, monitor such deployment and provide appropriate advise to workers and foreign principals and employers on employment, travel and recruitment procedures.

SECTION 2. POEA Clearance for Special Cases. — The POEA shall issue special clearances to non-contract workers possessing contract worker's passport and/or employment visa or work permit for the host country, subject to the guidelines formulated by the Administration for the purpose.

SECTION 3. Coordination with Government Functionaries. — The LAC shall maintain close coordination with the Bureau of Immigration and Deportation, Department of Foreign Affairs, Philippine Tourism Authority, Airport Management and other appropriate government bodies in the discharge of its duties.

RULE X
Legal Assistance and Enforcement
Measures

SECTION 1. Acts Constituting Illegal Recruitment. — All recruitment activities as defined under Section 2, Rule I, Book VI of these Rules and all prohibited practices under Article 34 of the Code when undertaken by a non-licensee, a suspended or canceled agency constitute illegal recruitment activities.

Recruitment and placement activities of agents or representatives appointed by a licensee, whose appointments were not previously authorized by the Administration shall likewise constitute illegal recruitment.

SECTION 2. Anti-Illegal Recruitment Programs. — The Administration 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 as well as recruitment violations which are administrative or criminal in nature;

b. Prosecution of illegal recruiters;

c. Special operations such as surveillance of companies, establishments and entities found to be engaged in the

recruitment of workers for overseas employment without having been licensed to do so; and

d. Information and education campaign;

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

SECTION 3. Legal Assistance. — The Administration shall provide free legal service to victims of illegal recruitment and related cases as well as recruitment violations 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 4. Filling of Complaints for Illegal Recruitment. — Victims of illegal recruitment and related cases as well as recruitment violations which are administrative or criminal in nature may file with the Administration a report or complaint in writing and under oath.

The complaint shall state the following among others:

a. The name/s and address/es of the complainant/s;

b. The name/s and address/es of the alleged offender/s. Where the offender is a corporation, partnership or association, the officer/s responsible for the act/s as charged shall as far as practicable be individually and specifically named;

c. The specific act/s and/or omissions complained of as constituting the offense;

d. The date, place and approximate time when the alleged act/s and/or omissions was/were committed;

e. Amount exacted, if any, and place of payment; and

f. Relief sought and such other allegations by way of particulars.

All pertinent documents in support of the complaint must be attached thereto, whenever possible.

In regions outside the National Capital Region, complaints and reports involving illegal recruitment may be filed with the appropriate regional office of the Department or with the Center or Regional Extension Unit concerned for the corresponding legal assistance and enforcement measures.

SECTION 5. Action on the Complaint/Report. — Upon receipt of the complaint/report, it shall be immediately docketed and numbered and thereafter referred for assignment and investigation. Where the complaint/report alleges that recruitment activities are still on-going, the necessary surveillance shall be conducted and on the basis of the findings, the issuance of closure order may be recommended to the Administrator through the Director-LRO if recruitment activities are confirmed. If on the basis of the investigation conducted, sufficient basis for institution of a criminal action against the offender/s is found, the case shall be immediately forwarded to the appropriate unit for such action.

SECTION 6. Surveillance. — The Administration and/or designated officials in the DOLE regional offices, upon receipt of an information, complaint and/or report, or on their own initiative may conduct surveillance on the alleged recruitment activities.

No surveillance may be conducted unless authorized by the Administrator or the Deputy Administrator, or the Director-LRO or the DOLE Regional Director concerned or their duly authorized representatives.

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

SECTION 7. Issuance of Closure Order. — The Secretary or the 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, the 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 from the preliminary examination conducted or based on the findings and recommendations and affidavit or surveillance of the Administration or designated regional officer, the Secretary or the Administrator or the Regional Director concerned is satisfied that such danger or exploitation exists, he may issue a written order for the closure of the establishment being used in connection with illegal recruitment.

In case of a business establishment whose license or permit to operate a business was issued by the local government, the Secretary, the 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 8. 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 9. 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 10. Institution of Criminal Action. — The Secretary or the Administrator or the Regional Director concerned, or their duly authorized representatives, or any law enforcement officer or any aggrieved person, may initiate the corresponding criminal action with the appropriate office.

Where a complain is filed with the Administration and the same is proper for preliminary investigation, it shall cause the filing of the corresponding complaint with the appropriate officer authorized to conduct the requisite preliminary investigation. The complaint to be filed shall be supported with a certification from the Administration, a closure order, if any, and report on the implementation thereof and other relevant documents.

Whenever necessary and practicable, the Prosecution Division may provide the complainant/victim with counsel to assist in the prosecution of the offender/s. The Administration shall monitor all cases it initiated.

SECTION 11. 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 ten (10) calendar days from the date of implementation thereof. The motion shall clearly to 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 12. Who May File. — The motion to lift a closure order may be filed only by the following:

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a. The owner of the building of his duly authorized representative;

b. The building administrator or his duly authorized representative;

c. The person or entity against whom the closure order was issued and implemented or his its duly authorized representative; or

d. Any other person or entity legitimately operating within the premises of the office which was closed/padlocked whose operations/activities are separate and distinct from the recruitment activities of the person/entity subject of the closure order and who would be unduly prejudiced by the continued closure of said office.

SECTION 13. Grounds for Lifting/Re-Opening. — Lifting of the closure order (CO) and/or re-opening of the office closed or padlocked may be granted on any of the following grounds:

a. That the office closed or padlocked is not the office, subject of the CO;

b. That the contract of lease between the owner of the building or the building administrator, as the case may be, covering the office/premises that were closed/padlocked has already been cancelled or terminated. The request or motion 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 Administration;

c. That the office which was closed/padlocked is likewise the office of a person/entity not otherwise connected with or participating directly or indirectly in the illegal recruitment activities which was the basis of the CO sought to be lifted;

d. Any other ground that the Administration may consider as valid and meritorious.

Lifting of a closure order shall not prejudice the filing of a criminal complaint with the appropriate office against the person alleged to have conducted illegal recruitment activities at the office/premises closed or padlocked.

SECTION 14. Appeal. — The order of the Administrator denying the motion to lift may be appealed to the Office of the Secretary within ten (10) calendar days from service or receipt thereof.

SECTION 15. Re-Closing/Re-Padlocking of Office Earlier Re-Opened. — Where an office was allowed to be re-opened upon any grounds hereinabove provided and the same was subsequently confirmed to as being used for illegal recruitment activities again, said office shall be closed/padlocked. For this purpose, a new CO shall be issued. In such cases, no motion to lift shall be entertained.

BOOK III
Placement by the Private Sector

RULE I
Accreditation of Principals
and Projects

SECTION 1. Application for Accreditation of Principals and Projects. Only duly licensed agencies may file application for accreditation of their principals or projects overseas.

SECTION 2. Requirements for Accreditation. An agency applying for the accreditation of its principals or projects shall submit the following:

a. For a Landbased Agency for its Principals

(1) Standard or master employment contract;

(2) Special power of attorney/service agreement;

(3) Manpower request from foreign principal indicating skills, wages and the number of workers needed; and

(4) Other documents which the Administration may find necessary.

b. For a Manning Agency for its Principals

(1) Authenticated special power of attorney and manning agreement;

(2) Crew complement and wages;

(3) List of vessels and their particulars and;

(4) Other documents which the Administration may find necessary.

SECTION 3. Verification or Authentication of Documents. Wherever required and as determined by the Secretary, Verification or authentication of documents for accreditation of principals or projects shall be undertaken by the following:

a. Verification of documents at the site of employment may be undertaken by the Labor Attache or the Assistance Labor Attache in his absence, by the appropriate official at the Philippine Embassy or the authorized Philippine foreign representative in the absence of a Philippine Mission.

b. Authentication of documents at the site of employment may be undertaken by the appropriate official of any of the designated Ministries/Offices of the host countries.

Requirements for accreditation shall not be authenticated if basic documents are signed by the authorized officials of both the hiring company and its local agent in the presence of any member of the POEA Directorate or duly designated officers of the Administration.

SECTION 4. Parties to the Agreement. Accreditation may be granted only when the foreign signatory to the recruitment agreement with the applicant agency is the direct employer of the workers to be recruited. Foreign placement agencies may be accredited as principals if they are authorized to operate as such in their respective countries.

SECTION 5. Accreditation of Principals. A landbased principal or project shall be accredited to only one agency. The Administration may grant accreditation to a second agent as may be deemed necessary. In the case of the manning sector, a shipping principal may be accredited to not more than three (3) agencies.

SECTION 6. Transfer of Accreditation. The accreditation of a principal or a project may be transferred to another agency provided that transfer shall not involve any diminution of wages and benefits of workers.

The transferee agency in these instances hall comply with the requirements for accreditation and shall assume full and complete responsibility to all contractual obligations of the principals to its workers originally recruited and processed by the former agency. Prior to the transfer of accreditation, the Administration shall notify the previous agency and principal of such application.

SECTION 7. Actions on Applications for Accreditation of Projects Whose Contracting Partners or Principals Have Outstanding Obligations. Applications for the transfer of accreditation of principals or projects shall be acted upon by the Administration upon submission of all requirements by the new transferee agency.

Obligations or money claims arising out of business relations between contracting partners or between agencies

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and principals may be conciliated by the Administration. However, the pendency of the conciliation should not prevent the Administration from acting on the request for accreditation if public interest so requires.

SECTION 8. Approval and Validity of Accreditation. The Administration shall issue to the agency an accreditation certificate for its principal or project after approval of the accreditation request.

Full accreditation shall be valid for a maximum period of two (2) years from the date of issuance, subject to renewal.

Provisional accreditation may be granted for a period of ninety (90) days for a principal or a project that meets the accreditation requirements substantially.

SECTION 9. Revocation of Accreditation. The accreditation of a principal or project may be revoked by the Administration in any of the following cases:

a. Upon request or notification by the principal or contracting partner;

b. Upon request of the agency;

c. False documentation or misrepresentation in connection with the application for accreditation; or

d. Violation of applicable laws, rules and regulations on overseas employment.

SECTION 10. Blacklisting of Persons, Principals and Contracting Partners. Employers, principals and contracting partners including natural persons found defaulting on their contractual obligations to workers, agencies and/or violating rules and regulations on overseas employment or committing grave misconduct and offenses involving moral turpitude shall be prohibited from participating in the overseas employment program. For this purpose, the Administration shall advise the employer, principal or contracting party concerned including its Embassy/Consulate in the Philippines and other Philippine government entities participating in this program.

RULE II
Documentary Processing

SECTION 1. Recruitment Order/Crew Order. Agencies which have selected workers for their accredited principals shall, as a prerequisite for contract processing with the Administration, submit for approval a recruitment order (RO) or crew order (CO) as the case may be, using the prescribed form which shall indicate the names, positions and salaries of selected contract workers, among others.

SECTION 2. Documentary Processing. Documentary processing shall commence upon presentation of the approved RO or CO together with the following documents:

a. Individual employment contract (EC) containing minimum provisions promulgated by the Administration;

b. For seafarers, valid seamen service record book (SSRB) and seafarer's registration card (SRC); and

c. Insurance certificate in case of the landbased sector.

The agency shall provide each worker a copy of the approved EC duly signed by the worker and employer or where appropriate, by the agency.

The Administration may impose other processing requirements as may be necessary.

SECTION 3. Payment of Processing Fees. Payment of processing fees shall be made immediately after approval of the RO or the EC. All payments shall be covered by official receipts.

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SECTION 4. Worker's Deployment. An agency shall deploy its recruits within the deployment period as indicated below:

a. One hundred twenty (120) calendar days from the date of signing of the employment contract for all landbased workers;

b. Thirty (30) calendar days from the date of processing by the Administration of the employment contracts of seafarers.

Failure of the agency to deploy a worker within the prescribed period without valid reasons shall be a cause for suspension or cancellation of license or fine. In addition, the agency shall return all documents at no cost to the worker.

SECTION 5. One-Stop Processing Center. An inter-agency processing center shall act as a one-stop servicing body to provide expeditious clearing system for overseas contract workers and facilitate their deployment abroad.

SECTION 6. Balik-Manggagawa Processing. Filipino contract workers except seafarers, who are on vacation or on emergency leave, and who are returning to the same worksite, to resume, their employment within six (6) months from the date of arrival in the Philippines, shall be processed as balik-manggagawa (BM). Said BM may be processed individually or through the agency which previously deployed them.

For individual balik-manggagawa, the following documents shall be required:

a. Valid passport;

b. Valid re-entry visa, work permit or any equivalent document;

For agency-endorsed balik-manggagawa, the following documents shall be required:

a. Previously POEA processed employment and travel documents of the contract workers;

b. Valid passport;

c. Valid re-entry visa, work permit or any equivalent document.

SECTION 7. Agency-endorsed Returning Workers. All recruitment agencies handling returning workers to their accredited principals shall assume responsibility over said workers for the duration of the employment contract in force. While the agencies may charge service fees to their employers for this purpose, no re-deployment fees shall be collected from the returning workers.

BOOK IV
PLACEMENT BY THE ADMINISTRATION

RULE I
Recruitment and Placement
by the Administration

SECTION 1. Hirings Through the Administration. The Administration shall recruit and place workers primarily on government-to-government arrangements, and shall therefore service the hirings of foreign government ministries and instrumentalities. It may also recruit and place workers for foreign employers in such sectors as policy may dictate. In pursuance thereof, the Administration shall, among others:

a. Administer programs and projects that may support the employment development objectives of the Administration; and

b. Undertake, in cooperation with the Regional Offices of the Department, organized recruitment activities in the provinces in aid of the employment dispersal policy of the government.

SECTION 2. Documentary Requirements from Employer. An employer hiring through the Administration shall submit the following documents:

a. Work permit or visa assurance of workers where applicable;

b. Recruitment order which shall state the number and categories of workers needed, compensation benefits, qualification, guidelines, testing procedures, etc;

c. Model employment contract; and

d. Other documents which the Administration may find necessary.

SECTION 3. Formalization of a Recruitment Agreement. Employers hiring through the Administration shall be required to formalize a Recruitment Agreement (RA). The RA shall, among others, contain the following provisions:

a. Responsibilities of the parties to the agreement;

b. Selection and documentation procedures;

c. Fee schedules and terms of payment;

d. Manner and facilities for remittance of workers' salary;

e. Grievance machinery for workers; and

f. Validity and revocation of the agreement.

The standards and requirements set by the Administration for the recruitment and placement of workers overseas shall apply to hirings through the Administration.

SECTION 4. Recruitment and Placement of Workers.

a. Interview and Selection. An employer hiring through the Administration shall select his workers from the manpower pool developed and maintained by the Administration;

b. Medical Examination. Selected workers shall undergo and pass a standard pre-employment medical examination conducted by a duly accredited medical retainer of the Administration;

c. Travel Arrangements. The employer shall assume the full cost of worker's transportation to and from the place of work.

d. Orientation. Before the departure for the worksite, hired workers shall undergo the required Pre-Departure Orientation Seminar (PDOS).

SECTION 5. Documentation of Workers.

a. Contract Processing. Workers hired through the Administration shall be issued the following documents:

(1) Individual employment contract duly signed by the employer or his authorized representative or the proper official of the Administration where appropriate; and

(2) Such other documents as may be necessary for travel.

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b. Passport Documentation. The Administration may secure directly the selected worker's passport from the Department of Foreign Affairs. All transmittals and endorsements for passport issuance shall be undertaken directly by the Administration.

c. Visa Arrangements. The Administration may assist employers and selected workers secure their visas from the appropriate Embassy.

RULE II
Name Hires

SECTION 1. Name Hires. Individual workers who are able to secure contracts for overseas employment on their own without the assistance or participation of any agency shall be processed by the Administration.

SECTION 2. Ban on Direct Hires. No employer may hire a Filipino worker for overseas employment except through the Administration or agencies licensed by the Secretary.

Direct-hiring by workers of the diplomatic corps, international organization and such other employers as may be allowed by the Secretary is exempted from this provision.

BOOK V
MARKET DEVELOPMENT AND FORMULATION OF
EMPLOYMENT STANDARDS

RULE I
Market Development

SECTION 1. Market Development. The promotion and development of employment opportunities abroad shall be undertaken by the Administration in cooperation with other government agencies and the private sector, through organized market research and promotion activities and services.

SECTION 2. Market Research and Planning. The Administration shall undertake market research activities in aid of market development which shall include among others.

a. Conduct of continuing market situation assessments and special market studies on competition, wages and working conditions, among others; and

b. Formulation and implementation of appropriate marketing strategies.

SECTION 3. Market Promotions. The Administration shall undertake among others a comprehensive manpower marketing strategy through:

a. Dispatch of marketing missions abroad;

b. Development and promotion of programs or arrangements that would encourage the hiring of Filipinos in organized or corporation groups as well as government-to-government arrangements;

c. Pursuance of bilateral labor agreements with existing/prospective host countries of Filipino manpower;

d. Promotion and advertising in appropriate media and development of support communication materials;

e. Client referral to the private sector; and

f. Establishment and maintenance of effective linkages with other government agencies including Philippine Missions abroad or corps of labor attaches, foreign through their Embassies, foreign employers, the local private recruitment sector, and other organizations.

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RULE II
Formulation of Employment
Standards

SECTION 1. Employment Standards. The Administration shall determine, formulate and review employment standards in accordance with the market development and welfare with the market development and welfare objectives of the overseas employment program and the prevailing market conditions.

SECTION 2. Minimum Provisions for Contract. The following shall be considered the minimum requirements for contracts of employment:

a. Guaranteed wages for regular working hours and overtime pay for services rendered beyond regular working hours in accordance with the standards established by the Administration;

b. Free transportation from point of hire to site of employment and return;

c. Free emergency medical and dental treatment and facilities;

d. Just causes for the termination of the contract or of the services of the workers;

e. Workmen's compensation benefits and war hazard protection;

f. Repatriation of worker's remains and properties in case of death to the point of hire, or if this is not possible under the circumstances, the proper disposition thereof, upon prior arrangement with the worker's next-of-kin and the nearest Philippine Embassy the Office of the Labor Attache;

g. Assistance on remittance of worker's salaries, allowances or allotments to his beneficiaries; and

h. Free and adequate board and lodging facilities or compensatory food allowance at prevailing cost of living standards at the jobsite.

SECTION 3. Standard Employment Contract. The Administration shall undertake development and/or periodic review of region, country and skills specific employment contracts for landbased workers and conduct regular review of standard employment contracts (SEC) for seafarers. These contracts shall provide for minimum employment standards herein enumerated under Section 2 of this Rule and shall recognize the prevailing labor and social legislations at the site of employment and international conventions. The SEC shall set the minimum terms and conditions of employment. All employers and principals shall adopt the SEC in connection with the hiring of workers without prejudice to their adoption of other terms and conditions of employment over and above the minimum standards of the Administration.

BOOK VI
RECRUITMENT VIOLATION AND
RELATED CASES

RULE I
Jurisdiction and Venue

SECTION 1. Jurisdiction. The Administration shall exercise original and exclusive jurisdiction to hear and decide all pre-employment cases which are administrative in character, involving or arising out of recruitment laws, rules and regulations including money claims arising therefrom or violation of the conditions for issuance of license to recruit workers.

SECTION 2. Grounds for suspension/cancellation of license.

a. Charging, imposing or accepting directly or indirectly, any amount of money, goods or services, or any fee or bond for any purposes whatsoever before employment is obtained for an applicant worker or where the fee charged is excessive or contrary to what is prescribed by the Administration;

b. Engaging in act/s of misrepresentation, in relation to recruitment and placement of workers, such as: publication or advertisement of false or deceptive notices of information or submission for processing of documents which are fraudulent or containing false information;

c. Inducing or attempting to induce an already employed worker to transfer from or leave his employment for another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;

d. Influencing or attempting to influence any person or entity not to employ any worker who has not applied for employment through his agency;

e. Obstructing or attempting to construct inspection by the Secretary, the Administrator or their duly authorized representatives;

f. Substituting or altering employment contracts and other documents approved and verified by the Administration from the time of actual signing thereof by the parties up to and including the period of expiration of the same without the Administration's approval;

g. Failure to file reports as may be required by the Administration;

h. For the owner, partner, or officer/s of any licensed agency to become an officer or member of the Board of any corporation or partnership engaged directly or indirectly in the management of a travel agency;

i. Unreasonable withholding or denying travel or other pertinent documents from workers for monetary considerations or reasons other than those authorized under the Code and its implementing rules and regulations;

j. Engaging in recruitment activities in places other than specified in the license without previous authorization from the Administration;

k. Appointing or designating agents, representatives or employees without prior approval from the Administration;

l. Falsifying or altering travel documents;

m. Deploying workers whose employment and travel document were not processed by the Administration;

n. Deploying workers or seafarers to vessels or principals not accredited by the Administration;

o. Publishing or causing the publication of overseas job vacancies in violation of the prescribed rules;

p. Failure to deploy workers without valid reasons within the prescribed period;

q. Disregard of lawful orders, notices and other processes issued by the Administration;

r. Coercing workers to accept prejudicial arrangements in exchange for certain benefits that rightfully belong to the workers;

s. Withholding of workers' salaries or remittances without justifiable reasons;

t. Violation of other pertinent provisions of the Code and other relevant laws, rules and regulations, guidelines and other issuances on recruitment and placement of workers for overseas employment and the protection of their welfare; and

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u. Committing any other acts similar or analogous to the foregoing;

SECTION 3. Grounds for Revocation of License.

a. Violation/s of the conditions of license;

b. Engaging in act/s of misrepresentation for the purpose of securing a license or renewal thereof, such as giving false testimonies or falsified documents;

c. Engaging 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;

d. Incurring an accumulated three (3) counts of suspension by an agency based on final and executory orders within the validity period of its license.

SECTION 4. Venue. Any complaint/report involving violation of recruitment laws, rules and regulations, violation of terms and conditions for the grant and use of a license to recruit workers for overseas employment and violation of pertinent provisions of the Code, its implementing rules and regulations and administrative issuances, shall be filed with the Adjudication Office, this Administration, or in Regional Office except in the case of NCR, the same shall be filed with POEA where the applicant-worker applied or was recruited at the option of the complainant.

In cases falling within the jurisdiction of NCR, the same shall be filed with the Administration.

In the case of reports received by the Administration, the same shall be investigated by the Adjudication Office, this Administration or at the appropriate Regional Office.

All actions filed with the Administration shall be heard before the Adjudication Office.

However, cases filed with the Administration may be transferred upon request of either party to the Regional Office before issues are joined and upon approval by the Administration.

Complaints/Reports filed at the Regional Office shall be heard by the duly designated POEA Hearing Officer or designated representative.

RULE II
Filing of Complaints

SECTION 1. Who May File. Any person may file a complaint in writing and under oath for the suspension or cancellation of the license of any agency with the Administration.

The Administration on its own initiative or upon filing of a complaint or report for investigation by any aggrieved person, shall conduct the necessary proceedings for the suspension, cancellation or revocation of the license of any agency.

SECTION 2. Caption and Title. The complaint shall be filed in accordance with the following captions:

(a) for recruitment violation(s) and related cases filed with the Administration —
Republic of the Philippines
Department of Labor and Employment
Philippine Overseas Employment Administration
Adjudication Office
Metro Manila
POEA Case No. RRB (L)yr/mo/no (M)

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In the matter of Violation of Recruitment Rules & Regulations/Regulations Implementing the Labor Code, as amended, Circulars, etc., vs. _____, respondent/s.

(b) recruitment violation and related cases filed with the Regional Office —
Republic of the Philippines
Department of Labor and Employment
Regional Office No. _____
_____
Province/District
RO Case No. ASDJ (L)yr/mo/no. RV (M)

In the Matter of Violation of Recruitment Rules & Regulations/Regulations Implementing the Labor Code, as Amended, Circulars, etc., vs. _____, respondents/s.

SECTION 3. Contents of Complaint/Report. All complaints/reports shall be under oath and must contain, among others the following:

a. The name/s and address/es of the complainant/s;

b. The name/s and address/es of the respondent/s;

c. The nature of the complaint;

d. The substance, cause/grounds of the complaint;

e. When and where the action complained of happened;

f. The amount of claim, if any; and

g. The relief/s sought.

All pertinent papers or documents in support of the complaint must be attached whenever possible. The complaint shall be under oath, and shall be administered by any officer authorized by law.

SECTION 4. Docket and Assignment of Cases. Complaints duly received shall be docketed and numbered and shall be raffled off to Hearing Officers of the Administration.

RULE III
Action upon the Complaint

SECTION 1. Answer/Counter-Affidavit. Upon receipt of the complaint, the Administration shall issue show cause order directing the respondent/s to file a verified Answer/Counter-affidavit within ten (10) calendar days and not a Motion to Dismiss, incorporating therein all pertinent documents in support of its defense, and attaching thereto proof of service of a copy thereof upon the complaint/s. The answer shall be deemed filed on the date of receipt stamped thereon, if filed personally, or on the date stamped on the envelope, if filed by registered mail.

SECTION 2. Failure to File Answer. Failure to file answer will constitute a waiver on the part of the respondent and hearing/investigation shall proved ex- parte.

SECTION 3. Service of Subpoena Duces Tecum and Subpoena Ad Testificandum. The Administration shall issue subpoena or subpoena duces tecum.

The process server who personally served the subpoena duces tecum and/or subpoena ad testificandum, notice, order, resolution or decision shall submit his return within five (5) calendar days from the date of his service,

thereof, stating legibly in his return his name, the mode/s of service, the name/s of the other person/s offered and the date/s of receipt. If no service was effected, the serving officer shall state the reason therefor. The return shall form part of the records of the case.

SECTION 4. Failure or refusal to Obey Subpoena Duces Tecum and Subpoena Ad Testificandum. The license of an agency who fails or refuses to obey the subpoena duces tecum/subpoena ad testificandum, shall be suspended until compliance of the directive of this Administration.

This is without prejudice to the outcome of the investigation wherein the proper penalty may be imposed.

SECTION 5. Proof and Completeness of Service. The return is prima facie proof of the facts stated therein. Service by registered mail is complete upon receipt of the addressee or agent; but if the addressee or agent fails to claim his mail from the post office within five (5) calendar days from date of last notice of the postmaster, service shall take effect after such time.

SECTION 6. Motions for Extension. Only one motion for extension of time to file answer shall be allowed. The Hearing Officer, upon receipt of such motion may, upon meritorious grounds, grant a non-extendible period not exceeding ten (10) calendar days. Rulings of the Hearing Officer on motions for extension shall be sent by personal service or by registered mail.

SECTION 7. Authority to Initiate Clarifying Questions. At any stage of the proceedings and prior to the submission by the parties of the case for resolution, the Administration may initiate clarifying questions to further elicit facts or information, including bit not limited to the subpoena of relevant documentary evidence.

SECTION 8 . Summary Judgment. Should the Hearing Officer find upon consideration of the answers, counter-affidavits and evidence submitted, that resolution/decision may be rendered thereon, the case shall be deemed submitted.

SECTION 9. Nature of Proceedings. The proceedings before the Hearing Officer shall be non-litigious in nature, subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The Hearing Officer may avail himself of all reasonable means to ascertain the facts of the case, including ocular inspection, where appropriate, and examination of informed persons.

SECTION 10 Effects of Withdrawal/Desistance. The withdrawal/desistance of the complaining witness shall not bar the Administration from proceeding with the investigation on recruitment violation/s. The Administration shall act on the case as may be merited by the results of the investigation and impose such penalties on the erring agency as may be deemed appropriate.

SECTION 11. Resolution of the Case. The Hearing Officer/Regional Office shall within thirty (30) calendar days from submission of the case, submit its recommendation to the Adjudication Office.

SECTION 12. Who May Issue Orders/Resolutions. Only the Secretary, or his duly designated representative, may issue cancellation or revocation order. Orders of suspension of license or the lifting of preventive suspension or suspension of documentary processing shall be signed by the Administrator or in his absence by his duly designated Officer-in-Charge.

All other orders or resolutions shall be signed by the Director — AO.

SECTION 13. Contents of Orders/Resolutions. Order/resolutions issued by the Administration shall be clear and concise and shall include a brief statement of the following:

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a. facts of the case;

b. issue/s involved;

c. applicable law/s or rule/s;

d. conclusions and reasons therefor; and

e. specific remedy/ies or relief/s granted or imposable sanction/s.

SECTION 14. Suspension of Documentary Processing. The Administration may order the suspension of the processing of documents pertaining to a respondent agency on any of the grounds for violation of any provision of these Rules, POEA Orders, Rules and Regulations.

This is without prejudice to the outcome of the investigation wherein the proper penalty may be imposed.

SECTION 15. Suspension of License Pending Investigation. Pending investigation of the recruitment violation/s, and upon notice, the license of the respondent agency may be suspended for a period not exceeding the imposable penalties under the Revised Schedule of Penalties, on the following grounds:

a. There exist reasonable grounds to believe that the agency will lead to further violation or exploitation of the workers being recruited or adversely affect friendly relations with any country or otherwise prejudice national interest; and

b. There is a prima facie case for violation of the Code, its implementing rules and regulations, recruitment rules and regulations or any issuance of the Administration where the evidence of culpability is strong.

The Administrator may issue an order lifting the order of preventive suspension as the circumstances may warrant.

SECTION 16. Suspension/Cancellation of License. Orders of suspension/cancellation shall be imposed in accordance with the Schedule of Penalties promulgated by this Administration.

SECTION 17. Fines. The Secretary or the Administrator may impose fines.

The Secretary may also impose additional fines for failure to comply with a final order.

SECTION 18. Restraining Orders. The Order/s of suspension shall become effective immediately unless a restraining order (RO) is obtained from the Office of the Secretary.

Motions for issuance of a restraining order (RO) shall be filed with the Docket and Enforcement Division (DED) of the Adjudication Office or in the Regional Office as the case may be.

SECTION 19. Effects of Orders of Suspension/Cancellation or Revocation. An order of suspension/cancellation or revocation shall have the effect of suspending or terminating all activities of the agency which fall under the definition of recruitment and placement. The Administration may seek the assistance of other government institutions, agencies or offices to ensure that suspension or cancellation orders are implemented.

RULE IV
Review

SECTION 1. Jurisdiction. The Secretary shall have exclusive jurisdiction to review recruitment violation cases and other related cases decided by the Administration motu proprio or upon petition of party/ies in interest.

SECTION 2. When to File. Petitions for review shall be filed within ten (10) calendar days from receipt of the

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Order by the parties.

All Motions for Reconsideration shall be treated as a petition for review.

SECTION 3. Effects of Filing a Petition for Review. The filing of a petition for review shall not automatically stay the execution of the order of suspension unless restrained by the Secretary.

SECTION 4. Transmittal of the Records of the Case on Petition for Review. The Docket & Enforcement Division (DED), Adjudication Office, shall transmit the entire records of the case, together with the Petition for Review filed by any of the parties to the Office of the Secretary within five (5) calendar days from receipt of the same.

RULE V
Execution of Orders

SECTION 1. Issuance of Writ of Execution for Refund. After the Order has become final and executory, the Administrator shall, upon motion of the party in interest, issue a writ of execution requiring the Enforcement Officer to execute the same.

SECTION 2. Issuance, Form and Contents of A Writ of Execution. The writ of execution must issue in the name of the Republic of the Philippines, requiring the Enforcement Officer to execute the orders of the Administrator or the Secretary or his duly authorized representative as the case may be for refund of money claims.

The writ of execution must contain the dispositive portion of the orders or awards sought to be executed and must require the Enforcement Officer to serve the writ upon the losing party or upon any other person required by law to obey the same before proceeding to satisfy the judgment out of the cash bond and/or escrow, or where applicable, the surety bond, the personal property of such party and in case there is no sufficient personal property, then out of his real property, for refund of money claims.

A writ of execution shall not be necessary for the enforcement of Orders for the return of travel and other related documents. A copy of the order served upon the losing party or upon any other person required by law to obey such order is sufficient.

The writ of execution shall be valid and effective for a period of sixty (60) calendar days from issuance thereof.

SECTION 3. Enforcement of Writs. In executing an Order, the Enforcement Officer shall be guided strictly by the Manual of Instructions for enforcement Officers of the POEA which shall form part of these Rules.

SECTION 4. Garnishment. In cases where several writs of execution are issued against the same agency, enforcement of the same through garnishments of the cash bond and/or escrow shall be on a "first-come, first-served" basis. The Order of Garnishment that is first served on the Accounting Division and/or the Trustee Bank of the Administration shall be satisfied, irrespective of the date of filing and order of the case or issue of writ of execution. The cash bond and/or escrow shall be pro-rated among the claimants for writs served simultaneously.

SECTION 5. Return of Writ of Execution. The person serving the writ of execution shall submit his return immediately, but not exceeding sixty(60) calendar days from date of issuance thereof. The return shall state the mode/s of service, the name/s of the person/s of service, the name/s of the person/s served and the date/s of receipt. The return shall also indicate legibly the full name of the serving officer. The return shall form part of the records of the case.

BOOK VII
EMPLOYER-EMPLOYEE RELATION CASES

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RULE I
Jurisdiction and Venue

SECTION 1. Jurisdiction. The Administration shall exercise original and exclusive jurisdiction to hear and decide all claims arising out of an employer- employee relationship or by virtue of any law or contract involving Filipino workers for overseas employment, such as but not limited to:

a. Violation of the terms and conditions of employment;

b. Disputes relating to the implementation and interpretation of employment contracts;

c. Money claims of workers against their employers and duly authorized agents in the Philippines or vice-versa;

d. Claims for death, disability and other benefits arising out of employment; and

e. Violation/s of or non-compliance with any compromise agreement entered into by and between the parties in an overseas employment contract.

The Administration shall also have jurisdiction over disciplinary cases involving overseas workers as provided for in Rule VII of this Book.

SECTION 2. Venue. Any complaint arising out of employer-employee relation cases shall be filed with the Adjudication Office, this Administration, or in the Regional Office where the complainant applied or was recruited for overseas employment at the option of the complainant.

All actions filed with the Administration shall be heard before the Adjudication Office. However, cases filed with the Administration may be transferred upon request of either party to the Regional Office before issues are joined and upon approval by the Administration.

Complaints filed at the regional Office or at the POEA Regional Extension Units (REUs) in the Regional Office shall be heard by the duly designated POEA Hearing Officer or designated representative.

RULE II
Filing of Complaints

SECTION 1. Who May File. Any aggrieved party may by himself or through his duly designated attorney-in-fact file a complaint in writing and under oath with the Administration or with the Regional Office.

The grievance machinery provided for is the employment contract, if any, shall be exhausted subject to the guidelines to be issued by the Administration.

SECTION 2. Caption and Title. The complaint shall be filed in accordance with the following captions:

a. for a purely employer-employee relations case — Republic of the Philippines
Department of Labor and Employment
Philippine Overseas Employment Administration
Adjudication Office
Metro Manila

POEA Case No. ADJ(L)yr/mo/no. (M)
_____, complainant/s, vs. _____, respondent/s.

b. for an employer-employee relations case with recruitment violation/s —
POEA Case No. ADJ(L)yr/mo. no. RV (M)

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_____, complainant/s, vs. _____, respondent/s.

c. for a disciplinary case —
POEA Case No. ADJ(L)yr/mo/no/DA (M)
_____, complainant/s, vs. _____, respondent/s.

d. for case/s originating from the Regional Offices —
Republic of the Philippines
Department of Labor and Employment
Regional Office No. ___
_____
Province/District
R.O. Case No. (L)yr/mo/no. RV (M)
_____, complainant/s, vs. _____, respondent/s.

SECTION 3. Contents of Complaint. All complaints shall be under oath and must contain, among others, the following:

a. Name/s and address/es of the complainant/s;

b. Name/s and address/es of the respondent/s;

c. Worksite;

d. The substance, cause/ground of the complaint/specific offense or omission;

e. Date when the offense was committed;

f. The amount of claim/s, if any; and

g. The relief/s sought.

All pertinent paper or documents in support of the complaint must be attached whenever possible.

SECTION 4. Docket and Assignment of Cases. Complaints duly received shall be docketed and numbered and shall be raffled off to Hearing Officers of the Adjudication Office.

SECTION 5. Service of Summons. Upon receipt of the complaint, the Administration shall issue Summons against the respondent/s, attaching therewith a copy of the complaint and its supporting documents, if any, and require the respondent/s to file an Answer and not a Motion to Dismiss, within ten (10) calendar days from receipt thereof.

The process server who personally served the summons, notice, order or resolution shall submit his return within five (5) calendar days from the date of his service thereof, stating legibly in his return, his name, the mode/s of service the name/s of the other person/s offered and the date/s of receipt. If no service was effected, the serving officer shall state the reason/s therefor. the return shall form part of the records of the case.

SECTION 6. Proof and Completeness of Service. The return is prima facie proof of the facts stated therein. Service by registered mail is complete upon receipt by the addressee or agent; but if the addressee or agent fails to claim his mail from the post office within five (5) calendar days from date of last notice of the postmaster, service shall take effect after such time.

RULE III
Action upon the Complaint

SECTION 1. Pre-Trial Conference. Within two (2) calendar days from receipt of the assigned case, the Hearing Officer shall set the case for Pre-Trial Conference with the end in view of arriving at an amicable settlement and for purposes of simplifying the issues, marking of evidence and stipulation of facts.

SECTION 2. Waiver. If respondent/s fail/s to file his/their Answer and pertinent documents within the period specified or fails to appear during the conference, respondent/s shall be deemed to have waived his/their right to present his/their evidence and the case shall be heard ex-parte and the Hearing Officer shall recommend the disposition of the case based on the evidence on record.

SECTION 3. Summary Judgment. Should the Hearing Officer find upon consideration of the pleadings, affidavits and evidence submitted, that resolution/decision may be rendered thereon, he shall consider the case submitted for decision.

SECTION 4. Judgment Based on Position Paper. When the parties fail to agree upon an amicable settlement and summary judgment is not appropriate, the Hearing Officer shall direct the parties to the case to submit their verified position papers and/or memoranda within fifteen (15) calendar days from notice.

The verified position papers shall cover only those claims and causes of action raised in the complaint, excluding those which may have been amicably settled, and shall be accompanied by supporting documents. The parties shall thereafter not be allowed to allege facts or present evidence to prove facts not referred to and any cause/s of action not included in the complaint or position papers, affidavits and other documents.

SECTION 5. Clarifying Questions. In case where the Hearing Officer finds that there are complicated factual issues involved that cannot be resolved through position paper or memorandum, he may direct the parties and their witnesses to appear before him to answer clarifying questions.

SECTION 6. Nature of Proceedings. The proceedings before the Hearing Officer shall be non-litigious in nature, subject to the requirements of due process. The technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The Hearing Officer may avail himself of all reasonable means to ascertain the facts of the case, including ocular inspection, where appropriate, and examination of informed persons.

SECTION 7. Effects of Settlement. At any stage of the proceedings, the parties may submit a Compromise Agreement subject to the approval of the Administration.

SECTION 8. Resolution of the Case. The Hearing Officer/Regional Office shall, within thirty (30) calendar days after its last hearing, submit its recommendation/s to the Adjudication Office.

SECTION 9. Who May Issue Decisions, Orders and Resolutions. The Administrator or his duly authorized officer-in-charge may issue decisions.

All other orders or resolutions shall be signed by the Director-AO.

SECTION 10. Contents of Decisions, Orders and Resolutions. Decisions/orders issued by the Administration shall be clear and concise and shall include a brief statement of the:

a. facts of the case;

b. issue/s involved;

c. applicable laws or rules;

d. conclusion/s and reason/s therefor; and

e. specific remedy/ies or relief/s granted.

In cases involving monetary awards, the decisions or orders must contain the amount awarded.

SECTION 11. Service and Finality of Orders/Decisions. Orders/decisions in employer-employee relationship cases shall become final after the lapse of ten (10) calendar days from receipt of a copy thereof, if no appeal or motion for reconsideration is perfected/filed.

RULE IV
Employer-Employee Relation Cases
where Violations of Recruitment
Regulation/s are Alleged
and/or Uncovered

SECTION 1. Simultaneous Hearing of Recruitment Violations and Employer-Employee Relation Cases. If on the face of the complaint for money claims arising out of employer-employee relationship/s, violation/s of recruitment regulation/s is/are alleged by the complainant/s or is/are uncovered by the Hearing Officer, the recruitment regulation case shall be docketed separately; but both cases shall be heard simultaneously. The Hearing Officer shall submit two (2) recommendations for the two (2) aspects of the case.

SECTION 2. Recommendation for the Imposition of Administrative Sanction/s. The disposition of the employer-employee relations aspect of the complaint is not necessary for the purpose of resolving the issue on recruitment violation/s. Once the Hearing Officer has terminated his investigation on the administrative aspect of the case, he shall forthwith submit his recommendations for review.

SECTION 3. Effects of Settlement of the Employer-Employee Relations aspect of the Complaint on the Uncovered/Alleged Recruitment Violation/s. any settlement arrived at by the parties resulting in the final disposition of the employer-employee relations aspect of the complaint shall not bar the Hearing Officer from conducting an independent investigation on the alleged/uncovered recruitment regulation violation/s, pursuant to the exercise of the Administration's regulatory functions.

SECTION 4. Discovery of Another Offense. When in the course of investigation on the alleged recruitment violation/s on pre-employment cases, another offense is uncovered, the Hearing Officer may issue the necessary show cause order or inform the respondent/s of the charge/s during the investigation and enter the same in the minutes. The Hearing Officer shall allow the parties the requisite period within which to file an Answer.

SECTION 5. Discovery of Another Respondent. When in the course of investigation on recruitment violation/s alleged and/or uncovered, another agency or person is found to have committed a violation, the Hearing Officer shall automatically implead said agency or person in the records of case pending, subject of investigation. For this purpose, show cause order shall be issued to the agency or person in accordance with the Rules.

RULE V
Appeals

SECTION 1. Period of Appeal. Decisions and/or awards of the Administration shall be final and executory unless appealed to the National Labor Relations Commission (NLRC) by any or both parties within ten (10) calendar days from receipt of such decisions and/or awards.

SECTION 2. Grounds. The appeal may be entertained only on any of the following grounds:

a. If there is prima facie evidence of abuse of discretion on the part of the Hearing Officer, or the Administrator;

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b. if the decision and/or award was secured through fraud or coercion;

c. if made purely on questions of law; and/or

d. if serious errors in the findings of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the appellant.

SECTION 3. Where Filed. The appeal in five (5) legibly typewritten copies shall be filed with the Regional Office/Administration where the case was heard and decided.

SECTION 4. Appeal Fee. The appellant shall pay an appeal fee of One Hundred Pesos (P100.00) to the Regional Office, or to the Administration and the official receipt of such payment shall be attached to the records of the case.

SECTION 5. Requisites for Perfection of Appeal. The appeal shall be filed within the reglementary period as provided in Section 1 of this Rule; shall be under oath with proof of payment of the required appeal fee and the posting of a cash or surety bond as provided in Section 6 of this Rule; shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof; the relief prayed for; and a statement of the date when the appellant received the appealed decision and/or award and proof of service on the other party of such appeal.

A mere notice of appeal without complying with the other requisites aforestated shall not stop the running of the period for perfecting an appeal.

SECTION 6. Bond. In case the decision of the Administration involves a monetary award, an appeal by the employer shall be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in an amount equivalent to the monetary award.

SECTION 7. No Extension of Period. No motion or request for extension of the period within which to perfect an appeal shall be allowed.

SECTION 8. Appellee's Answer. The Appellee may file with the Regional Office/Administration where the appeal was filed, his answer or reply to appellant's memorandum of appeal, not later than ten (10) calendar days from receipt thereof. Failure on the part of the appellee who was properly furnished with a copy of the appeal to file his answer or reply within the said period may be construed as a waiver on his part to file the same.

SECTION 9. Immediate Transmittal of Records and Appeal. Within forty-eight (48) hours after the filing of the reply or opposition of the appellee, or after the expiration of the period to file the same, the entire records of the case, together with the memorandum of appeal and the reply or answer thereto, if any, proofs of service, of payment of the appeal fee, and of the posting of the required bond, shall be transmitted by the Administration to the appropriate Division of the Commission.

SECTION 10. Records of Cases. The records of a case shall contain, among others, a complete narration of what transpired in the adjudication stage in the form of minutes, including all original pleadings, notices, transcripts of stenographic notes/minutes if any, proof of service of the decision, order or award and other documents, which shall be chronologically arranged and appropriately paged.

RULE VI
Execution of Decisions

The rule on issuance of Writ of Execution and its Enforcement as provided for in Rule V, Book VI of these Rules shall be made applicable.

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RULE VII
Disciplinary Action for
Overseas Contract Workers

SECTION 1. Disciplinary Action. Complaints for breach of discipline against a contract worker shall be filed with the Adjudication Office or Regional office, at the case may be.

The Administration may, motu proprio, undertake disciplinary action against a worker for breach of discipline.

The Administration shall establish a system of watchlisting and blacklisting of overseas contract workers.

SECTION 2. Grounds for Disciplinary Action. Commission by the worker of any of the offenses enumerated below or of similar offenses while working overseas shall be subject to appropriate disciplinary actions as the Administration may deem necessary:

a. Commission of a felony punishable by Philippine laws or by the laws of the host country;

b. Drug addiction or possession or trafficking of prohibited drugs;

c. Desertion or abandonment;

d. Drunkenness, especially where the laws of the host country prohibit intoxicating drinks;

e. Gambling, especially where the laws of the host country prohibit the same;

f. Initiating or joining a strike or work stoppage where the laws of the host country prohibit strikes or similar actions;

g. Creating trouble at the worksite or in the vessel;

h. Embezzlement of company funds or of moneys and properties of a fellow workers entrusted for delivery to kins or relatives in the Philippines;

i. Theft or robbery;

j. Prostitution;

k. Vandalism or destroying company property;

l. Gunrunning or possession of deadly weapons;

m. Unjust refusal to depart for the worksite after all employment and travel documents have been duly approved by the appropriate government agency/ies; and

n. Violation/s of the laws and sacred practices of the host country and unjustified breach f government approved employment contract by a worker.

SECTION 3. Handling of Cases. The procedure/s provided in this Book shall also apply in disciplinary cases involving contract workers, including seamen.

SECTION 4. Who may be Included in the Watchlist. A contract worker, or a seaman, who has a pending complaint for disciplinary action and those against whom a warrant of arrest or hold order issued by the appropriate agency, shall be included in the watchlist.

SECTION 5. Penalties for Breach of Discipline. Breach of discipline may be penalized by:

a. stern warning;

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b. repatriation to the Philippines at the worker's expense;

c. suspension; and

d. disqualification from the overseas employment program.

In case of seamen, delisting from the registry.

The penalty/ies imposed by the Administration shall be without prejudice to whatever civil or criminal liability that may be imposed by appropriate courts for said breach of discipline.

SECTION 6. Disqualification of Contract Workers. Contract workers, including seamen, against whom penalties have been imposed or with pending obligations imposed upon them through an order, decision or resolution shall be included in the POEA Blacklist. Workers in the Blacklist shall be disqualified from overseas employment unless properly cleared by the Administration or until their suspension is served or lifted.

SECTION 7. Delisting of the Contract Worker's Name from the POEA Watchlist. The name of an overseas worker may be excluded, deleted and removed from the POEA Watchlist only after disposition of the case by the Administration.

RULE VIII
Common Provisions

SECTION 1. Records of Proceedings. The records of all proceedings before the Hearing Officer shall be summarized in writing by the Hearing Officer, including the substance of the evidence presented. The minutes of proceedings shall be signed by the parties and shall form part of the records. Where any of the parties refuse to sign, the refusal and reason/s given must be indicated by the Heading Officer in the minutes, which must be chronologically arranged and appropriately paged.

SECTION 2. Appearances. An attorney appearing for a party is presumed to be properly authorized for that purpose.

Appearances may be made orally or in writing. In both cases, the complete name and office address of both parties shall be made of record and the adverse party of his counsel/representative properly advised.

Any change in the address of counsel/representative should be filed with the records of the case and furnished the adverse party or counsel.

Any change or withdrawal of counsel/representative shall be made in accordance with the Rules of Court.

SECTION 3. Action on Motions. The Hearing Officer shall have the authority to rule on motions which may be done in writing or orally during the proceedings/conferences.

SECTION 4. Certification and Fees. The Chief of the Docket and Enforcement Division (DED) or his duly authorized representative, Legal Research, Docket & Enforcement (LRDE) Branch, Adjudication Office, shall be the Certifying Officer of the Adjudication Office, after payment of fees.

All certified copies shall bear the seal of the Administration.

SECTION 5. Custody of Seal and Books. The Docket and Enforcement Division, Adjudication Office, this Administration, shall keep in its office and custody the Seal of the Administration, together with all the books necessary for the recording of the proceedings of the Administration, including the records, files and exhibits:

a. General Docket Book — A General Docket Book of the Administration, each page of which shall be numbered

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and prepared for receiving all the entries in a single page, and shall enter therein all original and appealed cases before it, numbered consecutively in the order in which they were received and, under the heading of each case the date and hour of each pleading filed, of each order, decision or resolution entered and each step or action taken in the case; so that by reference to any single page, the history of the case may be known.

b. Promulgation Book — The Promulgation Book shall indicate the date and time of the promulgation, the case number, title of the case, the nature of the Order/Decision/Final Decision and the action taken by the Administration by quoting the dispositive portion thereof. Notices of said Decision/Resolution/Order shall be sent in sealed envelopes to parties/counsel within forty-eight (48) hours from promulgation.

c. Book of Entry of Judgment — A Book of Entry of Judgment, Orders, Resolutions and Decisions shall be kept and maintained by the Administration containing in chronological order the entries of all Final Orders, Resolutions, Decisions of the Administration. No Entry of Judgment shall be made in case the Decision is appealed to the Supreme Court.

SECTION 6. Disqualification of Erring Bonding Companies. Bonding companies refusing to acknowledge the jurisdiction of the Administration over the surety bonds posted with the latter, as well as those found not to be complying with orders issued against the surety bond, shall be recommended to the Licensing and Regulation Office for blacklisting.

SECTION 7. Applicability of the Rules of Court. The Revised Rules of Court of the Philippines shall, whenever practicable, supplement these Rules in similar or analogous character in proceedings brought before the Administration.

BOOK VIII
WELFARE AND EMPLOYMENT SERVICES

RULE I
Assistance to Workers

SECTION 1. Responsibility to Assist Workers. Agencies shall ensure that workers they deploy overseas are amply protected and their interest, well-being and welfare are promoted. Agencies shall be responsible for the faithful compliance by their foreign principals of all obligations under the employment contract and shall therefore, be liable for any and all violations of the contract.

SECTION 2. Request for Assistance. The Administration shall take cognizance of any request for assistance out of overseas employment from the contract worker and/or his family.

SECTION 3. Assistance in the Enforcement of Contractual Obligations. The Administration shall provide the worker and his family all assistance they may need in the enforcement of contractual obligations. The administration may call on agencies to conference or conciliation meetings or may require submission of reports for the purpose of settling complaints or problems brought to its attention. Agencies shall give these cases priority attention.

SECTION 4. Assistance on Matters not Related to Contractual Obligations. The Administration shall, in coordination with other government institutions and/or relevant non-governmental organizations, assist workers or members of their families on matters other than contractual obligations that may arise as a result of overseas employment. In the performance of this function, the Administration may call on agencies concerned which shall, therefore, provide all assistance required.

SECTION 5. Repatriation of Workers. The repatriation of the worker and the transport of his personal belongings

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shall be the primary responsibility of the agency which recruited or deployed the worker overseas. All costs attendant to repatriation shall be borne by the agency concerned and/or its principal.

Likewise, the repatriation of remains and transport of the personal belongings of a deceased worker and all costs attendant thereto shall be the responsibility of the principal and/or the local agency.

SECTION 6. Claims for Death, Disability and Other Benefits. Claims for death, disability and other benefits as well as money claims by the worker or his beneficiary/heir arising from overseas employment shall be given preferential attention and solution by the agency and/or its principal.

SECTION 7. Administrative Sanctions. Deliberate failure by agencies and/or principals to act on requests for assistance but not limited to those provided in Sections 1 to 6 of this Rule, may warrant imposition by the Administration of such sanctions as it may deem necessary.

SECTION 8. Welfare Programs and Activities. The Administration, in coordination with other institutions, shall initiate and undertake such projects and activities that will enhance the welfare and interests of workers at the jobsites and their families including such projects and activities that will facilitate the integration of returning workers into the mainstream of life in the Philippines.

RULE II
Conciliation of Complaints

SECTION 1. Conciliation of Complaints. Administration shall conciliate complaints of workers and/or their families arising out of the enforcement of the contract; matters not related to contractual obligations; and claims for death and/or disability and other benefits.

SECTION 2. Complainant. The Administration shall take cognizance of complaints filed by any contract worker, whether or not he is in the Philippines, by his heirs and beneficiaries, and by any licensed agency or its principal/employer.

SECTION 3. Conciliation Proceeding. Upon receipt of the complaint, the Administration shall notify the respondent. Whenever possible, the Administration shall bring together the complainant and the respondent with the end in view of arriving at an amicable settlement.

In its conduct of conciliation, the Administration may direct the parties to appear and answer questions.

In instance where there is amicable settlement and/or voluntary payment, the Administration shall witness such settlement/payment to the worker or his beneficiaries.

Should both parties fail to agree to an amicable settlement, the complaint may be referred to the Adjudication Office upon approval by the complainant.

SECTION 4. Administrative Sanction. Deliberate failure by agencies to act on complaints will warrant imposition by the Administration of such sanctions as it may deem necessary.

Likewise, if after proper evaluation of complaints and supporting documents there is a finding that the employer or principal is remiss in the performance of its contractual obligations to the prejudice of its workers, the Administration shall recommend watching said employer or principal.

RULE III
Workers Orientation

SECTION 1. Pre-Employment Orientation. The Administration, in coordination with other institutions, shall

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provide applicants for overseas employment with an orientation that will prepare them for overseas employment. Such will focus on but will not be limited to an overview of the overseas employment program; benefits and pitfalls of an overseas job; procedures and documentary requirements for application; licensed agencies; modus operandi of illegal recruiters; detection of illegal recruitment activities; and government services available to overseas job applicants and hired workers.

SECTION 2. Pre-departure Orientation Seminar. Every worker departing for overseas employment as a new hire shall undergo a pre-departure orientation seminar.

SECTION 3. Responsibility of Providing a Pre-Departure Orientation Seminar. It shall be the responsibility of every licensed agency to provide each worker it sends overseas a thorough pre-departure orientation seminar (PDOS) in accordance with the provisions of this Rule.

The conduct of PDOS shall be limited to accredited entities classified into the following categories:

a) Licensed agency with such an average annual deployment as may be determined by the Administration and with a previously accredited PDOS program shall be allowed to continue conducting PDOS for its recruits;

b) Association of licensed agencies;

c) Non-governmental organizations (NGOs) with special interest and concern for overseas contract workers; and

d) Other persons/entities as may be allowed by the Administration.

A licensed agency that does not fall under Section 3 (a) shall provide its workers with PDOS through any of the accredited entities mentioned above, upon compliance with the requirements for the accreditation of PDOS program tie-up

SECTION 4. Cost of PDOS. Attendance by a worker in the PDOS shall form part of the package of placement services already paid for by either the worker through his placement fee or by the employer or principal.

SECTION 5. Review and Approval of PDOS Programs and Tie-ups; Accreditation of PDOS Trainors. All pre-departure PDOS program tie-ups and trainors shall be reviewed, screened and approved by the Administration. Only programs and tie-ups which meet the requirements and trainors who pass the qualification standards of the Administration shall be given accreditation.

SECTION 6. Requirement for the Accreditation of a Non-Governmental Organization (NGO). Every non-governmental organization applying for accreditation to conduct PDOS, shall, in addition to the requirements under Section 5, enter into an agreement with the Administration defining its duties and responsibilities.

SECTION 7. Supervision and Monitoring of PDOS Activities. The Administration shall supervise and monitor the PDOS activities of accredited agencies. The PDOS venue of every agency shall be subject to periodic inspection and/or spot inspections as often as the Administration deems it proper.

SECTION 8. Submission of PDOS Reports. Agencies shall submit to the Administration and advance monthly schedule of their pre-departure orientation seminars the report shall include seminars held the previous month indicating the names of the workers/participants, the date of PDOS and the countries of destination.

SECTION 9. Certificates of Attendance. Workers who complete the PDOS shall be issued Certificates of Attendance. The Certificates of attendance shall be submitted to the Administration.

Issuance of certificates of attendance to workers who did not attend the PDOS shall be penalized.

SECTION 10. PDOS for POEA-Placed Workers. The Administration shall provide PDOS to workers placed

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overseas through its own facility

SECTION 11. Other Related Programs and Activities. The Administration shall develop and implement of other programs and activities in support of PDOS. Among others, the Administration may undertake a trainor's training for agencies and advance program designed to equip workers with the necessary skills to cope with or adopt to changes in environment.

SECTION 12. Sanctions. Violation of any of the provisions of this Rule shall be subject to sanctions.

RULE IV
Manpower Registry

SECTION 1. The Manpower Registry or Skills Bank. The Administration shall establish and maintain a national manpower registry or skills bank in support of the overseas employment program. For this purpose, it shall adopt a system of registration of workers according to skills, occupation or such classification as it may deem expedient and effective. As far as practicable, agencies shall recruit from the national manpower pool.

SECTION 2. Membership in the Manpower Registry. Membership in the national manpower registry shall be open to all workers. The Administration shall conduct and/or supervise the process of skill determination/qualification of applicant workers in accordance with established criteria and issue the corresponding certifications. Those who are duly certified by the Administration shall automatically become members of the pool.

SECTION 3. Agency Manpower Pool. An agency may establish its own manpower pool in support of its marketing program provided no fee shall be charged to the worker for membership in the manpower pool.

SECTION 4. Disqualifications from the Manpower Registry. A worker-applicant may be disqualified from the manpower registry on account of the following:

a. submission of fake documents;

b. breach of the Code of Discipline for Filipino overseas workers; and

c. tampering with documents issued by the Administration such as registration card, history cards and other forms used in registration;

d. other grounds that may be determined by the Administration.

RULE V
Manpower Research and
Development

SECTION 1. Research Studies. The Administration in coordination with other entities shall conduct periodic researches and studies on labor supply especially as it relates to the range and scope of demandable and critical skills for overseas employment including but not limited to international standards and technological development programs for landbased workers and seafarers; and for developing guidelines to regulated the outflow of critical skills especially in essential public services and industries indispensable to the national interest.

SECTION 2. Manpower Development Program for Overseas Workers. In order to rationalize the supply of qualified manpower for overseas employment, the Administration shall identify/develop training program and enlist the participation of both government and private sectors to undertake such programs for skills that are in demand overseas.

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SECTION 3. Development of Training Standards. On the basis of such research and studies, the Administrator shall coordinate with both private entities and government agencies and employers concerned in the formulation of accreditation and training standards.

SECTION 4. Implementation, Supervision and Regulation of Training Programs for Overseas Employment. The Administration shall implement, regulate and supervise the conduct of training programs for overseas contract workers.

RULE VI
Code of Discipline for Overseas
Contract Workers

SECTION 1. Obligations of Overseas Workers. It shall be the obligation of every Filipino overseas worker to abide by the terms and conditions of his employment contract, to behave in the best manner and tradition of a Filipino and to observe or respect the laws, customs, mores, traditions and practices of the country where he is working. It shall also be his obligation to abide with the requirements on remittance of earnings as well as to provide material help to his family during the period of his overseas employment:

a. Duty to family:

1) to provide ample financial and moral support to his family in the Philippines; and

2) to communicated with his family as often as he can and make his presence felt just as if when he is around.

b. Duty to fellow contract worker:

1) to assist and cooperate with other contract workers working in the same site; and

2) to restrain from degrading a colleague in order to get a position or rank or from putting a fellow worker in bad light before his colleagues or superiors.

c. Duty to country:

1) to uphold the ideals of the Republic of the Philippines and to defend it, if warranted;

2) to abide by the rules and regulations made at promoting the worker's interest and enhancing national gains; and

3) to be the Ambassador of Goodwill, projecting only the good in the Filipino and restrain from tarnishing the Filipino image abroad.

d. Duty to agency and/or employer:

1) to provide the agency and/or employer with correct and true statements/certifications regarding his skill, experience and other qualifications;

2) to understand and abide with the terms and conditions of the employment contract;

3) to maintain a high level of productivity as well as abide by company rules and regulations; and

4) to refrain from committing acts which are detrimental to the interest of his employer, agency during his documentary processing and/or employment.

e. Duty to host country:

1) to respect the mores, customs and traditions of the country; and

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2) to respect and obey the laws of the host country.

RULE VII
Performance Bond for Workers

SECTION 1. Performance Bond. In order to ensure faithful compliance by workers of their work contracts and to safeguard against their getting stranded as a result of the termination of their employment for cause or the abrogation of their employment contract for reason of non-performance, agencies may require each worker recruited and hired by them to post a performance bond equivalent to a return plane fare but in no case exceed P20,000.00. Arrangement for the bond agreement or its renewal shall be undertaken by the agency.

Agencies may, in lieu of the performance bond, adopt a reimbursable return travel fund scheme subject to guidelines by the Administration.

The posting of performance bond is optional for seamen.

SECTION 2. Payment of Premium Fee. Only the exact amount for premium fee including the necessary notarial fee shall be charged each worker for the performance bond. Imposition of the performance bond in cash is strictly prohibited. The cost of premium for the bond shall be in addition to the placement fee paid by the worker.

SECTION 3. Repatriation Program. In the event the worker is terminated for cause or whose employment contract is abrogated for non-performance necessitating his immediate repatriation, the agency involved shall immediately cause the repatriation of said worker. For this purpose, the agency shall advance the cost of plane fare and later collect from the bonding company the amount involved.

SECTION 4. Repatriation of Workers Without Performance Bond. The responsibility of the agency to immediately repatriate a worker who is terminated for cause or whose employment contract was abrogated for reason of non-performance shall also apply to workers without performance bond. In cases like these, the agency concerned shall immediately repatriate the workers and shoulder the cost of repatriation.

SECTION 5. Action on Failure To Effect Immediate Repatriation. Should the agency unduly delay without justifiable reason the repatriation of the worker who is terminated for cause or whose employment contract is abrogated for reason of non-performance in spite of adequate notice to it by the Administration, the latter may cause the worker's repatriation and charge the cost of the plane fare to the agency's cash bond.

RULE VIII
Foreign Exchange Remittance

SECTION 1. Obligation To Remit. It shall be mandatory for a contract worker to remit to his beneficiary in the Philippines such percentage of his basic salary abroad as required in Section 3 below and have the same exchanged for pesos through the Philippine banking system. Agencies shall cause the inward remittance of foreign exchange payments resulting from their overseas transactions such as service fees, airfares and others.

SECTION 2. Obligation To Report. Agencies shall submit periodic reports to the Central Bank of the Philippines on their foreign exchange earnings, copies of which shall be furnished the Administration.

SECTION 3. Mandatory Remittance Requirement. The percentage of foreign remittance referred to in Section 2 of this Rule, shall be as follows:

a. Seamen or mariners: Eighty percent (80%) of the basic salary

b. Workers of Filipino contractors and construction companies: Seventy (70%) percent of the basic salary

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c. Doctors, engineers, teachers, nurses and other professional workers whose employment contracts provide for free board and lodging facilities: Seventy (70%) percent of the basic salary

d. All other professionals whose employment contracts do not provide free board and lodging facilities: Fifty percent (50%) of the basic salary

e. Domestic and other service workers: Fifty (50%) percent of the basic salary

f. All other workers not falling under the aforementioned categories: Fifty (50%) percent of the basic salary

SECTION 4. Proof of Compliance. Proof of compliance with the mandatory remittances requirement as mentioned on Section 2 hereof, many consist of any of the following documents or such alternatives as may be approved by the Central Bank of the Philippines showing that the contract workers had in fact effected aforesaid remittance and had caused the surrender of the same for pesos through the Philippine banking system.

a. Confirmed bank remittance form; or

b. Certification from employer duly authenticated that remittance has been effected; or

c. Bank certification or credit/payment advice evidencing sale for pesos to the Philippine banking system; or

d. Central Bank official receipt covering foreign exchange sold in the Philippines to authorized agent banks or authorized foreign exchange dealers; or

e. Receipt of International Postal Money Order.

BOOK IX
GENERAL AND MISCELLANEOUS
PROVISIONS

SECTION 1. Authority to Administer Oaths. The Administrator, or any person designated by him to handle cases or disputes, shall have the authority to administer oaths and require the attendance of witnesses or the production of any book, paper, correspondence, memoranda and other documents relevant or material to the case or inquiry.

The Administrator may also designate any officer or employee to administer oath on matters pertaining to the filing and receiving of complaint as well as enforcement of decisions, orders or resolutions of the Administration.

SECTION 2. Consolidation of Cases. Where there are two (2) or more cases pending before different Hearing Officers, involving the same respondent/s and issues, the case which was filed last may be consolidated with the first to avoid unnecessary cost or delay. Such cases shall be handled by the Hearing Officer to whom the first case was assigned.

SECTION 3. Prescription. All money claims arising from the acts enumerated in Section 1, Rule I of Book VI, shall be barred if not commenced or filed with the Administration within three (3) years after such cause of action accrued.

Likewise, disciplinary action shall be barred if not commenced or filed with the Administration within three (3) years after such cause of action occurred.

SECTION 4. Construction. These rules shall be liberally construed to carry out the objectives of the Constitutions, the Labor Code of the Philippines, Laws pertaining to overseas employment and to assist the parties in obtaining just, expeditious and inexpensive settlement of disputes.

SECTION 5. Separability Clause. The provisions of these Rules and Regulations are declared to be separable and

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if any provision or the application thereof is held invalid or unconstitutional, the validity of the other provisions shall not be affected.

SECTION 6. Repealing Clause. All policies, issuances, rules and regulations inconsistent with these Rules are hereby repealed or modified accordingly.

SECTION 7. Effectivity. These rules shall take effect fifteen (15) days from publication in a newspaper of general circulation.

Done in the City of Manila this 31st day of May 1991.

Adopted: 31 May 1991

(SGD.) RUBEN D. TORRES
Secretary
Department of Labor and Employment

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