

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF LABOR AND EMPLOYMENT
MANILA

3567 01 NOV 11

DEPARTMENT ORDER No. 12
Series of 2001

May
SECRET

**OMNIBUS GUIDELINES FOR THE ISSUANCE OF EMPLOYMENT PERMITS
TO FOREIGN NATIONALS**

Pursuant to the provisions of Articles 5, and 40 of PD 442, as amended, the provisions of Rule XIV, Book I of its Implementing Rules and Regulations, Section 17(5), Chapter 4, Title VII of the Administrative Code of 1987, the following Omnibus Guidelines for the issuance of Employment Permits are hereby promulgated:

Rule 1. Coverage and Exemption

1. The following shall apply for Alien Employment Permit (AEP):
 - 1.1 All foreign nationals seeking admission to the Philippines for the purpose of employment;
 - 1.2 Missionaries or religious workers who intend to engage in gainful employment;
 - 1.3 Holders of Special Investors Resident Visa (SIRV), Special Retirees Resident Visa (SRRV), Treaty Traders Visa (9d) or Special Non-immigrant Visa (47(a)2), who occupy any executive, advisory, supervisory, or technical position in any establishment;
 - 1.4 Agencies, organizations or individuals whether public or private, who secure the services of foreign professionals to practice their professions in the Philippines under reciprocity and other international agreements;
 - 1.5 Non-Indo Chinese Refugees who are asylum seekers and given refugee status by the United Nations High Commissioner on Refugees (UNHCR) or the Department of Justice under DOJ Department Order No. 94, series of 1998;
 - 1.6 Resident foreign nationals seeking employment in the Philippines.
2. **Exemption.** The following categories of foreign nationals are exempt from securing an employment permit in order to work in the Philippines:
 - 2.1 All members of the diplomatic services and foreign government officials accredited by the Philippine government;

- 2.2 Officers and staff of international organizations of which the Philippine government is a cooperating member, and their legitimate spouses desiring to work in the Philippines;
- 2.3 Foreign nationals elected as members of the Governing Board who do not occupy any other position, but have only voting rights in the corporation; and
- 2.4 All foreign nationals granted exemption by special laws and all other laws that may be promulgated by the Congress.

Rule II. Procedures in the Processing of Applications for AEP

- 1. All foreign nationals seeking employment in the Philippines under Rule I hereof or their prospective employers, shall file their applications with the DOLE Regional Office having jurisdiction over the intended place of work.
- 2. **Fees** –The applicant shall pay filing, publication and permit fees in the amount of Eight Thousand Pesos (P8,000.00) for each application for AEP with a validity of one (1) year. Three Thousand Pesos (P3,000.00) shall be charged for every additional year of validity or a fraction thereof.
- 3. An AEP shall be issued based on the following:
 - 3.1 Compliance by the applicant employer or the foreign national with the substantive and documentary requirements;
 - 3.2 Determination of the DOLE Secretary that there is no Filipino national who is competent, able and willing to do the job for which the services of the applicant is desired;
 - 3.3 Assessment of the DOLE Secretary that the employment of the foreign national will redound to national benefit;
- 4. **Denial of Application for AEP** - An application for AEP may be denied based on the ground of non-compliance with any of the requirements for issuance of AEP or for misrepresentation of facts in the application or submission of falsified or tampered documents.

Foreign nationals whose applications have been denied shall not be allowed to re-apply in any of the DOLE Regional Offices.

- 5. **Renewal of Permit** - An application for renewal of AEP shall be filed at least fifteen (15) days before its expiration. For elective officers, applications for renewal shall be filed upon election or at least thirty (30) days before the effectivity of the applicant's term of office if the succeeding term of office is ascertained.

Failure to file the application for renewal of permit within the prescribed period shall be subject to fines of Five Thousand Pesos (P5,000.00), if filed within six (6) months after the prescribed period and Ten Thousand Pesos (P10,000.00), if filed after six (6) months. Failure to renew the AEP within one (1) year after its expiration shall be a cause for its revocation or cancellation.

6. The employer shall notify the DOLE-RO which issued the permit of the date of the assumption to duty of the foreign national within thirty (30) days from issuance of the permit.
7. **Validity of Permits** - The validity of permits shall be as follows:
 - 7.1 As a general rule the validity of permits shall be for a period of one (1) year, unless the employment contract, consultancy services, or other modes of engagement or term of office for elective officers, provides for a longer period.
 - 7.2 The effectivity of the renewal shall be on the day after the expiration of the previous permit, regardless of whether or not the renewal is granted before or after the expiration of the previous permit.
 - 7.3 As a general rule, the permits shall be valid only for the position and the employer for which it was issued, except in case of foreign nationals who are holders of multiple positions in one corporation, where one AEP shall be valid for such multiple positions.
 - 7.4 The permits of resident foreign nationals shall be valid for multiple employers, regardless of the nature and duration of their employment, provided that they shall report changes in their employment status and the identity of their employers to the DOLE Regional Office which has issued the permit.

Rule III. Revocation/Cancellation of Employment Permits Issued

1. The permits issued may, motu proprio or upon a petition, be cancelled or revoked based on any of the following grounds:
 - 1.1 Misrepresentation of facts or falsification of the documents submitted;
 - 1.2 The foreign national has been declared as an undesirable alien by competent authorities;
 - 1.3 Non-compliance with the conditions for which the AEP was issued;
 - 1.4 Failure to renew AEP within one (1) year after its expiration.
2. Petitions for cancellation or revocation of permits issued shall be resolved within thirty (30) calendar days from receipt thereof.
3. Any aggrieved party may file a Motion for Reconsideration and/or Appeal and the same shall be resolved based on Paragraph 4 of this Rule.
4. **Remedies in Case of Denial or Cancellation**– A Motion for Reconsideration maybe filed by an aggrieved party within seven (7) calendar days after receipt of the Order of Denial/Cancellation. The DOLE Regional Director shall resolve the said Motion for Reconsideration within ten (10) calendar days from receipt thereof.

A Motion for Reconsideration filed after the period of seven (7) calendar days but within ten (10) calendar days after receipt of the denial shall be treated as an appeal.

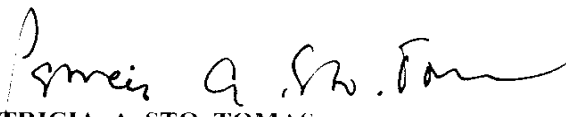
An Appeal from the decision of the DOLE Regional Director may be filed with the Secretary of Labor and Employment within ten (10) calendar days from receipt of an Order from the DOLE Regional Director. The decision of the Secretary of Labor and Employment shall be final and unappealable.

Rule IV. Penal and Transitory Provisions

1. The DOLE Regional Directors, after due notice and hearing, shall have the power to order and impose a fine of Five Thousand Pesos (P5,000.00) on foreign nationals found working without an AEP for less than one (1) year and Ten Thousand Pesos (P10,000.00) for more than one (1) year.
2. All applications for employment permit/certificates pending at the DOLE-RO upon the effectivity of these Guidelines shall be covered and processed under the provisions of these Guidelines.
3. Holders of provisional and extended AEPs issued under Memorandum dated 24 August 2001 regarding Alternative Interim Measures for the Issuance of Alien Employment Permits, shall apply for an AEP pursuant to these Guidelines on or before the expiration of the provisional and extended AEP.
4. Foreign nationals who are already working in the country and who have not yet secured the requisite employment permit shall have ninety (90) days from the effectivity of these Guidelines to secure the said employment permit without penalty.

Rule VI. Miscellaneous Provisions

1. **Manual of Operations** - The Bureau of Local Employment shall issue a Manual of Operations to implement the provisions of these Guidelines.
2. **Separability Clause** - If any provision or part of this Department Order or the application thereof to any person or circumstance is held invalid by the Courts, the remaining valid provisions of this Department Order shall not be affected.
3. **Repealing Clause** - All guidelines, rules and regulations and agreements inconsistent herewith are hereby repealed or modified accordingly.
4. **Effectivity** - These guidelines shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.


PATRICIA A. STO. TOMAS
Secretary

16 November 2001

DISSEMINATED BY AS-RECORDS SECTION ON 11-20 2001