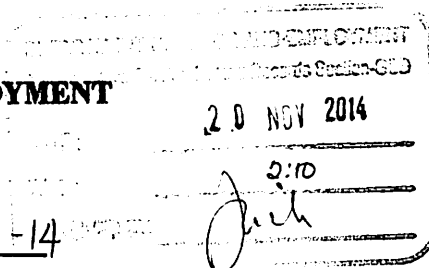


Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila



DEPARTMENT ORDER NO. 141-14
Series of 2014

**REVISED RULES AND REGULATIONS GOVERNING
RECRUITMENT AND PLACEMENT FOR LOCAL EMPLOYMENT**

Pursuant to Articles 5, 13, and 25 to 39 of the Labor Code, as amended, the following Rules and Regulations Governing Private Recruitment and Placement for Local Employment are hereby issued for compliance of all concerned.

Section 1. Declaration of Policy. – It is the policy of the Department of Labor and Employment:

- a. To recognize the participation of the private sector in the recruitment and placement of workers for local employment, to promote equality of employment opportunity and treatment in access to employment and particular occupations as part of the over-all thrust for national development;
- b. To promote employment creation as one of the principles under the decent work agenda;
- c. To ensure compliance with the pertinent provisions of the Labor Code, as amended, Anti-Trafficking in Persons Act of 2003, Anti-Child Labor Laws, and other related laws, rules and regulations;
- d. To protect every citizen desiring to avail of the services of private employment agencies by ensuring the best possible terms and conditions of employment; and
- e. To cooperate with government agencies and duly registered non-government organizations in protecting and promoting the welfare of Filipino jobseekers.

Section. 2. Coverage – These rules shall apply to every person, partnership or corporation intending to engage or engaged in the recruitment and placement for local employment through an agency.

Persons, partnerships or corporations in the Philippines intending to engage or engaged in the recruitment and placement through the electronic medium shall be covered by the applicable provisions of these rules.

The relevant provisions of Republic Act No. 10361 entitled "An Act Instituting Policies for the Protection and Welfare of Domestic Workers" shall govern the recruitment and placement of domestic workers within local employment.

Section 3. Definition of terms. - The following terms shall have the meanings indicated hereunder:

- a. **"Bureau"** refers to the Bureau of Local Employment.
- b. **"Department"** - Refers to the Department of Labor and Employment.
- c. **"Secretary"** - refers to the Secretary of the Department of Labor and Employment.
- d. **"Regional Office"** - refers to the Regional Offices of the Department.
- e. **"Regional Director"** - refers to the Regional Director of the Regional Office.
- f. **"Field Office"** refers to the district or provincial offices of the Department.
- g. **"Private employment agency or agency"** refers to any person, partnership or corporation engaged in the recruitment and placement of workers for local employment.

It also refers to any individual, partnership, corporation or entity licensed by the Department of Labor and Employment (DOLE) to engage in the recruitment and placement of Kasambahay for local employment.

- h. **"License"** refers to a document issued by the Secretary through the Regional Director authorizing a person, partnership or corporation to operate a private employment agency.
- i. **"Authority to operate branch office"** refers to a document issued by the Secretary through the Regional Director authorizing a private employment agency to establish and operate a branch office.
- j. **"Authority to recruit"** refers to a document issued by the Secretary through the Regional Director authorizing a person to conduct recruitment activities for local employment on behalf of a private employment agency.

- k. "**Representative**" refers to a person acting as an agent of a private employment agency registered with the Regional Office and granted Authority to Recruit.
- l. "**Domestic Seafarer**" refers to any person who is employed or engaged to work in any capacity on board ship as defined herein.
- m. "**Ship**" refers to a Philippine registered ship or vessel which navigates within the territorial jurisdiction of the Philippines or closely adjacent to, sheltered areas or areas where port regulations apply.
- n. "**Public Employment Service Office or PESO**" refers to a non-fee charging multi-employment service facility or entity established, recognized or accredited pursuant to Republic Act No. 8759 or the PESO Act of 1999 and its implementing rules and regulations.
- o. "**Recruit**" refers to any Filipino individual promised, contracted, or enlisted for employment.
- p. "**Domestic Worker or Kasambahay**" refers to any person engaged in domestic work within an employment relationship, whether on a live in or live out arrangement, such as, but not limited to general househelp, yaya, cook, gardener, or laundry person, but shall exclude service providers, family drivers, children who are under foster family arrangement, or any person who performs domestic work only occasionally or sporadically and not on occupational basis.
- q. "**Recruitment contract**" refers to the agreement entered into between a private employment agency or its representative and a recruit stating the terms and conditions of the recruitment in a language known and understood by the recruit.
- r. "**Employment contract**" refers to the individual written agreement between the employer and the worker stating clearly the terms and conditions of employment in a language known and understood by the worker.
- s. "**Service contract**" refers to the agreement entered into between the employer and the private employment agency stating clearly the terms and conditions of the service.

- t. **"Service fee"** refers to the amount charged by a private employment agency to a local employer as payment for actual services rendered in relation to the recruitment and placement of workers.
- u. **"Deployment Expenses"** refer to expenses that are directly used for the transfer of the Kasambahay from the place of origin to the place of work covering the cost of transportation, meals, communication expense, and other incidental expenses. Advances or loans by the Kasambahay are not included in the definition of deployment expenses.
- v. **"Employer"** refers to any person, partnership, corporation or entity engaging the services of a worker through the private employment agency, and who is party to the employment contract with the worker.

It also refers to any person who engages and controls the services of a Kasambahay and is party to the employment contract.

- w. **"Non-licensee or non-holder of authority"** refers to any person, partnership or corporation who has not been issued a license or authority to recruit, or whose license or authority to recruit has been revoked or cancelled by the Regional Director.

Section 4. Qualifications - The applicant for a license to operate a private employment agency must possess the following:

- a. Filipino citizens for single proprietorship and seventy five percent (75%) of the authorized capital stock is owned and controlled by Filipino citizens for partnership and corporation.
- b. Minimum net worth of P1,000,000.00 in case of single proprietorship and a minimum paid up capital of P1,000,000.00 in case of partnership and corporation; and
- c. Not otherwise disqualified by law or other government rules and regulations to engage in the business of recruitment and placement of workers for local employment.

Section 5. Disqualification. - The following are not qualified to engage in the business of recruitment and placement for local employment:

- a. Those who are convicted of illegal recruitment, trafficking in persons, anti-child labor violation, or crimes involving moral turpitude;

- b. Those against whom probable cause or prima facie finding of guilt for illegal recruitment or other related cases exist particularly to owners or directors of agencies who have committed illegal recruitment or other related cases.
- c. Those agencies whose licenses have been previously revoked or cancelled by the Department under Sec. 54 of these rules.
- d. Cooperatives whether registered or not under the Cooperative Act of the Philippines.
- e. Law enforcers and any official and employee of the Department of Labor and Employment (DOLE).
- f. Sole proprietors of duly licensed agencies are prohibited from securing another license to engage in recruitment and placement.
- g. Sole proprietors, partnerships or corporations licensed to engage in private recruitment and placement for local employment are prohibited from engaging in job contracting or sub contracting activities.

Section 6. Requirements for application. - The applicant shall submit a duly accomplished application form together with the following requirements:

- a. Filing fee of P 5,000.00
- b. Certified copy of the certificate of business registration and copy of the original application obtained from the Department of Trade and Industry (DTI) in the case of single proprietorship; or a certified copy of the Articles of Partnership or Incorporation duly registered with the Securities and Exchange Commission (SEC), in the case of a partnership or a corporation;
- c. Documentary proof of ownership or lease of an office space with a floor area of at least fifty (50) square meters for the exclusive use of the agency. In case of lease, the contract must be for a period of one (1) year with an option for renewal;
- d. NBI clearance of the applicant owner, or the partners in case of a partnership, or in case of corporation, its officers and directors;
- e. An affidavit of undertaking stating among others that the applicant shall:

1. not support or engage in acts involving illegal recruitment, trafficking in persons, violation of Anti-Child Labor Law or crimes involving moral turpitude or similar activities;
 2. ensure that DOLE Standard Recruitment are adhered to by the parties;
 3. not collect any fees whatsoever from the applicants;
 4. assume full responsibility for all acts of its officers, employees and representatives in connection with recruitment and placement activities;
- f. Designate an Office Manager and an Office Secretary or Clerk who must be knowledgeable in the preparation and review of documents, and
 - g. List of representatives who must be at least college level and/or with relevant training or experience in the recruitment industry; and;
 - h. Certificate of participation/attendance of agency's management representative to a pre-application seminar.

An agency duly licensed to recruit and place workers for overseas employment intending to engage in local recruitment and placement must apply for a separate license.

Section 7. Pre-Application Seminar. - The owner, partners, president, general managers or agency's management representative must attend a pre-application seminar conducted by the Regional/Field Offices prior to the filing of the application for license.

These rules shall be the subject of the seminar with emphasis on the requirements for application, Anti-Trafficking in Person Act of 2003, Anti-Child Labor Laws, illegal recruitment, and other prohibited practices with the corresponding penalties, including labor market information. The Bureau shall formulate the module for the pre - application seminar.

Section 8. Where to File. - The application for license shall be filed in the Regional Office/Field Office having jurisdiction over the place where the applicant's intends to establish its office.

In case the documents submitted are incomplete, the application must not be received and/or accepted.

Section 9. *Payment of filing fee.* Upon receipt of the application together with complete requirements, the applicant shall pay a filing fee of P5,000.00.

Such fee shall not be refunded in case the application is denied.

Section 10. *Action on the application.*- Within ten (10) calendar days from receipt of the application together with the complete requirements and proof of payment of the filing fee, the Regional Director or his representative shall evaluate the documents, conduct an ocular inspection of the office premises and equipment to determine whether to grant or deny the application.

In case the documents submitted are incomplete, the application must not be accepted and/or received.

Section 11. *Posting of bonds and payment of license fee.* – Upon approval of application, the applicant shall pay a license fee of P15,000.00. It shall also post a cash bond in the amount of P50,000.00 and surety bond in the sum of P100,000.00.

The bonds shall answer for all valid and legal claims arising from the use of license. It shall likewise guarantee compliance with the provisions of the Labor Code, its implementing rules and relevant issuances of the Department on recruitment and placement.

Section 12. *Validity of the license.* – The license shall be valid for a period of three (3) years from the date of issuance unless sooner revoked or cancelled.

Section 13. *Renewal of the license.* – An application for renewal of license must be filed not earlier than sixty (60) days but not later than thirty (30) days before its expiration. The validity of the renewed license shall start on the date of expiration of the previous license.

The filing of such application after the lapse of the prescribed period shall be subject to penalties as provided for in these rules.

The application for renewal must be accompanied with the requirements provided under Section 6 together with copies of placement reports.

Section 14. *Display of license and organizational structure.* - The original license and the organizational structure of the agency with corresponding 2x2 size photographs of the officers, personnel, and representative/s must be conspicuously and permanently displayed within the office premises of the agency.

Section 15. *Non-transferability of license or authority.* - The license or authority to recruit shall not be transferred, conveyed or assigned to any person or entity other than the one in whose favor it was issued.

Section 16. *Change of ownership.* - An agency desiring to transfer ownership shall surrender its license to the issuing Regional Office. The new owner/s of the agency must apply for a new license.

A change or transfer of ownership of a single proprietorship shall cause the automatic revocation of the license.

In case of death of a single proprietor, the license may be extended for not more than six (6) months from the death of the proprietor upon the request of the heirs to continue only for the purpose of winding up the business operation or until its expiration whichever comes first.

A change in the relationship among the partners in a partnership shall cause the immediate dissolution of the partnership resulting to the automatic revocation of the license.

Section 17. *Appointment/Change of Officers and Personnel.* - Any change in the composition of the Board of Directors of a corporation and appointment of officers and personnel shall be registered with the Regional Office within five (5) days from the date of such change or appointment. The agency shall submit a Board Secretary's certificate of election, letter of appointment or contract of employment with their bio-data, 2"x2" photos and NBI clearances.

The Regional Office may deny the acknowledgment of the new officers and personnel for non-compliance with the requirements.

Change in the entire membership of the Board of Directors shall cause the revocation of the license.

Section 18. *Change of address.* - An agency intending to transfer to a new place of business shall notify the Regional Office that issued the license within fifteen (15) days prior to the intended date of transfer.

In case of transfer to another region and within fifteen (15) days prior to the date of transfer, the agency shall:

- a. Secure a clearance of no pending case from the issuing Regional Office;
- b. Notify the Regional Office which has jurisdiction over the new place of business;
- c. Submit to the receiving Regional Office a clearance of no pending case, location map of the new office and a copy of the contract of lease or certificate of ownership; and
- d. Publish the new address for two (2) consecutive weeks in a newspaper of general circulation.

The receiving Regional Office must conduct an ocular inspection of the agency's new office to ensure compliance with the requirements.

Section 19. Authority to recruit. - The authority to recruit may be issued together with the license by the concerned Regional/Field Office. Such authority to recruit shall be valid nationwide.

Section 20. Requirements. - For the issuance of an authority to recruit, the applicant/agency must submit the following requirements:

- a. Letter request by the agency;
- b. Certification under oath by the agency or an agreement between the agency and the representative or a special power of attorney stipulating details of the proposed recruitment activities;
- c. NBI clearance and bio-data of the representative with one recent passport-size picture;
- d. Certificate of no pending recruitment case; and
- e. Certificate of attendance to pre-application seminar.

No application shall be accepted unless all the requirements have been complied with.

Section 21. Action on the application for authority to recruit. -

- a. Within two (2) days from receipt of complete documents, the Regional Director shall deny or approve the application;
- b. Upon approval of the application, the applicant shall pay to the Regional Office a registration fee of P2,000.00.

Section 22. *Validity of the authority to recruit.* - The authority to recruit is co-terminus with the validity of the license unless such license or authority is revoked or cancelled for violation of the Labor Code, as amended and other related laws, rules and regulations.

Section 23. *Renewal of authority to recruit.* - An application for renewal of authority to recruit shall be filed not earlier than sixty (60) days but not later than five (5) days before the date of its expiration. The validity of the renewed authority to recruit shall be effective on the expiration date of the previous authority.

The filing of such application after the expiration of the prescribed period shall be subject to penalties as provided for in these rules.

The agency or its representative shall submit a copy of the existing authority to recruit together with the requirements specified in Section 20 of these rules.

Section 24. *Termination of authority to recruit.* - The authority to recruit is revoked upon the issuance of an Order of its cancellation or revocation by the concerned Regional Office.

Any existing authority to recruit shall be deemed cancelled upon the issuance of an authority to recruit for another Agency.

The agency shall publish in a newspaper of general circulation once for two (2) consecutive weeks the names and pictures of representatives whose authority have been revoked or terminated furnishing the Regional Office proof of such publication.

The Regional Office shall keep a record of the authorities issued, revoked or terminated and provide the Bureau a copy thereof.

Section 25. *Establishment of a branch office.* - An agency intending to operate a branch office must apply for an authority to operate branch office with the Regional Office having jurisdiction over the place where the branch office is located.

Section 26. *Requirements.* - An agency applying for an authority to operate branch office must submit the following requirements:

- a. Proof of payment of filing fee of P2,000.00;
- b. Certified copy of a valid license;
- c. Organizational structure of the branch office, including duly notarized appointments;

- d. NBI clearance of the branch manager and staff members;
- e. Bio-data and one passport-size picture of the branch manager and staff members; and
- f. Certification that the branch office has an office space with a minimum floor area of 50 square meters for the exclusive use of the branch office.

Unless all the requirements have been complied with, the application shall not be accepted.

Section 27. Action on the application. -

- a. Within five (5) days from receipt of the application, the Regional Director or his duly authorized representative shall evaluate the documents and conduct an ocular inspection of the branch office.
- b. Within five (5) days from the conduct of ocular inspection, the Regional Director shall approve or deny the application.

Section 28. Posting of additional surety bond and payment of registration fee. - Upon approval of the application, the applicant shall post an additional surety bond of P100,000.00 and pay a registration fee of P5,000.00.

Section 29. Validity of the authority. - The authority to operate branch office is co-terminus with the validity of the license of the agency unless sooner cancelled or revoked by the Regional Director.

Section 30. Renewal of authority to operate branch office. - An application to renew an authority to operate a branch office shall be filed not earlier than sixty (60) days but not later than ten (10) days before its expiration. The validity of the renewed authority to operate a branch office shall be effective on the expiration date of the previous authority.

The filing of such application after expiration of the prescribed period shall be subject to penalties as provided for in these rules.

The agency shall submit copy of existing authority to operate branch office together with the requirements specified in Section 26 of these rules.

Section 31. Grounds for denial of application. - The application for new license or its renewal thereof, authority to recruit and authority to operate branch office, may be denied on any the following grounds:

- a. Non-compliance with any of the requirements provided under these Rules;
- b. Pendency of a case for violation of the Labor Code, its implementing rules or related issuances;
- c. Conviction of a crime involving illegal recruitment, trafficking in persons or violation of anti-child labor laws or crimes involving moral turpitude by the applicant, any of its officers or authorized representatives; or
- d. License to operate or authority to recruit has been previously revoked or cancelled.

Section 32. Appeal from the denial of application. - The Order of the Regional Director denying the application for issuance of the license, authority to recruit, and authority to operate branch office may be appealed to the Office of the Secretary within ten (10) days from receipt of the order.

The Office of the Secretary shall resolve the appeal within ten (10) days from receipt of the notice of appeal. A motion for reconsideration can be filed within ten (10) days from receipt of the decision. A second motion for reconsideration shall not be allowed.

The decision of the Secretary shall become final and executory within (10) days from receipt of the resolution.

Section 33. Registration of educational institutions. - Educational institutions setting up placement offices to service their graduate students shall register their operations with the DOLE Regional/Field Office under such guidelines as may be prescribed by the Secretary. Such entities shall coordinate their recruitment activities with the PESO in the area where they operate.

Section 34. Loss of License or Authority. - In case of loss of license or authority, the licensee or holder of authority shall submit an affidavit of loss and pay a replacement fee of one thousand (P1,000.00) pesos.

After evaluation and approval, the Regional Director or its authorized representative shall issue a certified copy of the license or authority.

Section 35. Fees and Charges.

No fees whatsoever shall be collected neither deducted from the salaries or wages of the workers.

An agency may charge the following:

1. **Service fee.** - An agency may charge the employers a service fee as may be agreed upon by the agency and the employer. In no case shall the service fee be deducted from the worker's salary.
2. **Transportation expenses.** - The transportation expenses for the transfer of the worker from the place of residence to the place of work shall be charged to the employer, and shall in no case be deducted from the worker's salary.

Section 36. Issuance of official receipt.- All payments or fees made to or collected by an agency shall be evidenced by an official receipt indicating the amount paid and the purpose of such payment.

Section 37. Replacement of worker without cost. - An employer shall be entitled to a replacement of a worker without additional cost or a refund of 75% of the service fee and transportation expenses subject to the following conditions:

- a. If the worker is certified by a competent/government physician to be suffering from a medical or mental illness within one (1) month from the first day of work rendering him incapable of discharging the minimum requirements of the job; or
- b. If the worker abandons the job, voluntarily resigns, commits theft or any other acts prejudicial to the employer or his family within three (3) months from the first day of his work.

If the request for a replacement is beyond the abovementioned periods, the employer shall pay an additional service fee as agreed by both parties.

Section 38. Refund of service fee. - The employer is entitled to a refund of seventy five (75%) percent of the service fee if the agency failed to provide a replacement of worker based on any grounds enumerated in the preceding section after the lapse of one (1) month from receipt of the request unless the parties agreed on a longer period.

Section 39. Forfeiture of rights. - The employer is deemed to have forfeited his right for a replacement of the worker without cost or a refund of the service fee, if he failed to avail of the same within thirty (30) days after the lapse of one (1) month or three (3) months as the case may be, as provided in Section 37 unless otherwise agreed by the parties.

Section 40. Recruitment procedures. – The owner or authorized representative of the agency must abide by the following procedures:

- a. Present a copy of a valid license, the authority to recruit and notarized job order to the Public Employment Service Office (PESO) and Barangay Office where the recruitment activity is to be undertaken;
- b. Require the recruit to submit a copy of the following:
 1. Bio data or comprehensive resume;
 2. Birth certificate from the Local Civil Registrar or National Statistics Office;
 3. Original medical certificate issued by a government physician or by a reputable private medical practitioner; and
 4. Original barangay clearance issued by the Barangay Chairman who has jurisdiction over the place of residence of the recruit.
- c. Conduct an interview after evaluating the documents submitted by the applicant/s. Explain the recruitment contract and determine if they are fit, capable and willing to work.
- d. Submit to the Regional Office where the recruitment was undertaken a duly executed and notarized recruitment contract between the agency and the recruit.
- e. Request the Regional/Field Office or the PESO or organization duly accredited by the Department in the area of origin to conduct a pre-departure orientation to the recruits.
- f. Submit a list of the names and addresses of its recruits, together with a copy of documents specified in procedure (b) above to the Regional Office or the appropriate Field Office where recruitment process was undertaken for appropriate authentication and validation.
- g. Request the concerned Regional/Field Office of origin for a certification that the recruitment activity is in accordance with these rules, and furnish a copy thereof the PESO/ Local Government Unit concerned, the Regional Office, Marine Police/ Coast Guard/ Philippine National Police, Philippine Ports Authority/ Air Transportation Office, having jurisdiction over the place of destination, as the case may be.

Section 41. Placement procedures. - The following procedures shall be followed by the agency in the placement of the recruits:

- a. Upon arrival of the recruits at the place of destination and while waiting for the actual placement, the agency or its authorized representative must provide free, convenient and separate housing accommodation for men and women.
- b. The agency shall bring the recruit to the prospective employer as per job order (job vacancies) and shall arrange for an interview between the employer and the recruit within three (3) days upon arrival.
- c. The agency shall prepare the employment contract based on Standard Employment Contract stating the terms and conditions of employment including among others, the monthly salary and mode of payment, nature of work, benefits mandated by law and other benefits mutually agreed by both parties.
- d. Prior to placement, the agency shall provide Pre-Employment Orientation (PEO), on such matters as the rights and responsibilities of the workers, obligation of employers, grievance mechanism, location/ address and contact details of the agency and information on other possible support groups. The Bureau shall formulate the appropriate module of the PEO to be adopted by the agency.
- e. In the case of domestic workers,
 1. The agency shall require the employer to submit clearance from the Barangay Office and the National Bureau of Investigation or Philippine National Police;
 2. The agency shall inform the family of the recruit, the name, address and contact number of the employer.
 3. The agency shall register the domestic worker with the Barangay Office nearest the place of work.

Section 42. Acts constituting illegal recruitment. - Illegal recruitment shall mean any act of canvassing, enlisting, contracting, utilizing, hiring or procuring workers and includes referrals, contract services, promising or advertising for local employment, whether for profit or not, when undertaken by a non-licensee or non-holder of authority; provided, that any such non-licensee or non-holder of authority who, in any manner, offer or promises for a fee employment to two or more persons shall be deemed so engaged.

The following acts shall be unlawful when committed by any person whether or not a holder of a license or authority:

- a. To charge or accept directly or indirectly any amount or to make a worker pay the agency or its representatives any amount greater than that actually loaned or advanced to him;
- b. To furnish or publish any false notice or information in relation to recruitment or employment;
- c. To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority;
- d. To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- e. To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;
- f. To engage 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;
- g. To obstruct or attempt to obstruct inspection by the Secretary or by his/her duly authorized representatives;
- h. To substitute or alter to the prejudice of the worker, employment contract prescribed by the Department from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department.

Section 43. *Anti-illegal recruitment program.* - The Department shall adopt and implement programs, policies, rules and procedure 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;
- b. Assistance in the prosecution of suspected illegal recruiters;
- c. Special operations such as surveillance of persons and entities allegedly engaged in illegal recruitment activities; and

d. Information and education campaign.

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

Section 44. *Legal assistance.* - The Department may provide free legal assistance to victims of illegal recruitment and related cases including but not limited to, legal advice, assistance in the preparation of complaints and supporting documents, institution of criminal actions and whenever necessary, provide counseling during preliminary investigation and hearings.

Section 45. *Where to file complaints for illegal recruitment.* - The victim of illegal recruitment or other related illegal acts or his parents or legal guardians may file a written report or complaint under oath with the Regional Office or Field Office having jurisdiction over the place where the illegal act was committed.

Section 46. *Surveillance.* - The Regional Director or his duly authorized representative, may motu proprio, conduct surveillance on reported illegal recruitment activities.

Where the complaint/ report alleges that illegal recruitment activities are continuously committed, the Regional Director or his duly authorized representative shall conduct surveillance and if such activities are confirmed, a closure order may be issued thereof by the Regional Director or Field Officer.

If sufficient basis for criminal action is found, the case shall be immediately indorsed to the appropriate office.

Section 47. *Issuance of cease and desist order.* - The Regional Director or his duly authorized representatives shall conduct a preliminary examination to determine whether the activities of a non-licensee constitute a danger to life, limb, property or public order or will lead to further exploitation of job seekers.

If upon the preliminary examination or surveillance, the Regional Director is satisfied that such danger or exploitation exists, a written order shall be issued for the closure of the establishment being used for such recruitment activity.

In case of a business establishment whose license or permit to operate a business was issued by the local government, 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 48. Execution of cease and desist order. - A cease and desist order shall be served by the DOLE Sheriff upon the offender or the person in charge of the establishment subject thereof. Whenever necessary, the assistance and support of the appropriate law enforcement agencies shall be secured for such purpose.

Section 49. Execution Report. - Within twenty four (24) hours from the date of implementation thereof, the DOLE Sheriff shall submit to the Regional Director a written report under oath on the execution of the cease and desist order.

Section 50. Institution of criminal action. - The Regional Director concerned, or his/her duly authorized representatives or any aggrieved person, may initiate filing of appropriate criminal action with the office of the prosecutor.

Where a complaint is filed with the Regional Office and the same is proper for preliminary investigation, it shall be endorsed to the office of the prosecutor together with the supporting documents.

Section 51. Classification of offenses. - Administrative offenses are classified into serious, less serious and light, depending on the gravity. The Regional Director, after observance of due process, shall impose the appropriate administrative penalties in every recruitment violation.

- a. The following are considered serious offenses with the penalty of cancellation of license/authority:
 1. Recruitment and placement of workers in violation of anti-child labor laws.
 2. Engaging in acts of misrepresentation for the purpose of securing a license or renewal thereof.
 3. 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.
 4. Transferring, conveying or assigning the license/authority to any person or entity other than the one in whose favor it was issued.
 5. Charging or accepting directly or indirectly any amount from the worker.
 6. Continuous operation despite suspended license or authority.

7. Conviction for violation of any of the provisions of Republic Act No. 9208, known as the Anti-Trafficking in Persons Act of 2003, or Republic Act No. 7610, as amended by Republic Act No. 9231 and the Implementing Rules and Regulations.
8. Obstructing or attempting to obstruct inspection by the Secretary, the Regional Director or their duly authorized representatives.
9. Substituting or altering to the prejudice of the worker, employment contracts to be approved by the Regional Office from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Regional Office.
10. 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.
11. Influencing or attempting to influence any person or entity not to employ any worker who has not applied for employment through his agency.

b. The following are less serious offenses with their corresponding penalties:

First Offense — Suspension of license for two (2) months to six (6) months

Second Offense — Suspension of license for six (6) months a to One (1) year

Third Offense — Cancellation of license

1. Engaging in acts of misrepresentation in connection with recruitment and placement of workers.
2. Engaging in recruitment activities in places other than that specified in the license without previous authorization from the Department.
3. Appointing or designating agents, representatives or employees without prior approval of the Department.
4. Failure to comply with the undertaking to provide Pre-Employment Orientation (PEO) to workers.

5. Coercing workers to accept prejudicial arrangements in exchange for certain benefits that rightfully belong to the workers.
6. Disregard of orders, notices and other legal processes issued by the Department.
7. Failure to submit within the prescribed period the required reports related to local recruitment and placement.
8. Violation of other pertinent provisions of the Code and other relevant laws, rules and regulations, guidelines and issuances on recruitment and placement of workers for local employment and the protection of their welfare, including the filing or renewal of license or authority beyond the prescribed period.

Section 52. Fines. – The Regional Director shall have the power to impose a fine of ten thousand (P10,000.00) pesos for every count of offense committed in addition to the penalty of suspension of license.

Section 53. Penalty for cases involving five or more complainants. A respondent found guilty of committing an offense regardless of the number or nature of charges, against five or more complainants in a single case shall be imposed the penalty of cancellation of license.

Section 54. Complaints against agency. - Written complaints against an agency and/or the authorized representative/s based on any of the grounds enumerated under Section 51 of these Rules shall be filed with the Regional/Field Office having jurisdiction over the place where the agency or branch office is located, or where the prohibited act was committed, or at complainant's place of residence, at the option of the

complainant; provided, that the Regional Office/Field Office which first acquired jurisdiction over the case shall act on the complaint to the exclusion of the others.

Section 55. Contents of complaint. - The complaint shall be under oath to be administered by any officer authorized by law and must contain the following:

- a. The name and address of the complainant;
- b. The name and address of the respondent;
- c. The specific act complained of;
- d. When and where the acts complained of was committed;
- e. The amount of claim, if any; and
- f. The relief sought.

All relevant papers or documents supporting the complaint must be attached.

Section 56. Answer/counter-affidavit. - Upon receipt of the complaint, the Regional Director shall issue a show cause order directing the respondent/s to file within ten (10) days from receipt thereof a verified answer/counter-affidavit attaching all pertinent documents in support of its defense, furnishing the complainant/s a copy and submit proof of service of a copy. The answer shall be deemed filed on the date of receipt stamped thereon, if filed personally, or on the date indicated in the registry receipt, if filed by registered mail.

Section 57. Failure to file answer. - Failure to file an answer/counter affidavit within ten (10) days from receipt of show cause order shall constitute as waiver on the part of the respondent. The case shall be resolved on the basis of the complaint, documents and other pleading submitted thereto.

Section 58. Effects of withdrawal/ desistance. - The withdrawal/ desistance of the complaining witness shall not bar the Regional Office from proceeding with the investigation on recruitment violation. The Regional Office 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 59. Compromise agreement. - At any stage of the proceedings, the parties may submit a compromise agreement subject to the approval of the Regional Office.

Section 60. Resolution of the case. The hearings shall be completed within thirty (30) working days from the date of filing. The Regional Director shall resolve the case within ten (10) working days from the time the case is deemed submitted for decision.

Should the Regional Director find upon consideration of the answers, counter-affidavits and evidence submitted, that resolution/decision may be rendered thereon, the case shall be deemed submitted for decision.

Section 61. Suspension of license pending investigation. - Pending investigation of a complaint for any offense listed in Section 51 of these rules, the Regional Director, who is hearing the case, may suspend the license of the agency concerned on any of the following grounds:

- a. There exist reasonable grounds to believe that the continued operation of the agency will lead to exploitation of the workers being recruited or further violation of the law or rules;
- b. Failure of the agency to submit its position paper/answer on the complaint within ten (10) days upon receipt of the notice; or

- c. Failure to attend the hearing on two occasions despite due notice.

Section 62. Appeal from the order of suspension/cancellation. - The decision of the Regional Director is appealable to the Secretary by filing a notice of appeal with the appropriate Regional Office within ten (10) days from receipt of a copy of the order, on any of the following grounds:

- a. if there is *prima facie* evidence of abuse of discretion on the part of the Regional Director;
- 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 63. Motion for reconsideration. - The decision of the Secretary is final and executory unless a motion for reconsideration is filed within ten (10) days after receipt thereof. No second motion for reconsideration shall be entertained.

Within ten (10) days from the finality of the decision, the Regional Director shall issue writ of execution.

Section 64. Notice of closure of the agency or its branch. - The agency or its branch office which ceases to operate prior to the expiration of its license or its authority to operate shall notify the Regional Office concerned, stating the reason for such closure.

Section 65. Refund of cash bond. - A voluntary surrender of the license shall entitle the agency to a refund of its cash bond deposit only after posting a surety bond of similar amount from a bonding company accredited by the Insurance Commission which shall be valid for three (3) years from the date of filing of notice of closure. The agency may opt to maintain the cash bond within three (3) years from the date of filing of notice of closure.

If a case is filed against the agency, a refund of cash bond shall be effected after final resolution of the case or within three (3) years from the filing of the case, whichever ever comes later.

Section 66. *Inspection.* - To determine compliance or non-compliance with the provision of these rules, the Regional Director or the duly authorized representative shall have access to the records and premises of the agency at any time of the day or night wherever recruitment and placement activity is being undertaken pursuant to Art 37 of the Labor Code.

Section 67. *Registration in the Phil-Jobnet and submission of reports.* - All licensed agencies must register at the Phil-Jobnet within five (5) days from issuance of license and submit thereto its job vacancies for posting.

The agency shall submit monthly reports to the Regional Office which has jurisdiction over its operation within fifteen (15) days after the reference month.

Section 68. *Rewards and incentives.* - Rewards or incentives may be granted to registered private recruitment and placement agencies that fully comply with the pertinent laws, rules and regulations and Code of Good Practices. The DOLE shall formulate the guidelines containing the criteria in the grant of incentives and awards.

Section 69. *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.

Section 70. *Repealing Clause.* - All guidelines, rules and regulations, procedures and agreements inconsistent herewith are hereby repealed or modified accordingly.

Section 71. *Effectivity.* - This rules shall take effect after fifteen (15) days from the date of its publication in two (2) newspapers of general circulation.


ROSALINDA DIMAPILAS-BALDOZ
Secretary

Dept. of Labor & Employment
Office of the Secretary



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20 November 2014