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DEPARTMENT OF LABOR AND EMPLOYMENT
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**RULES AND REGULATIONS GOVERNING RECRUITMENT AND PLACEMENT
OF DOMESTIC WORKERS BY PRIVATE EMPLOYMENT AGENCIES
FOR LOCAL EMPLOYMENT**

Pursuant to the provisions of the Labor Code of the Philippines, as amended, specific to Article 5 of Chapter I, Articles 13, 15 (a)(2), and 16 – Title I, Chapter I, Articles 25 to 39 – Chapters II and III, Article 128 – Chapter VI, and Republic Act No. 10361, otherwise known as the Domestic Workers Act and its Implementing Rules and Regulations, the following Rules and Regulations Governing Recruitment and Placement of Domestic Workers by Private Employment Agencies for Local Employment is hereby issued.

**ARTICLE I
GENERAL PROVISIONS**

Section 1. Declaration of policy. It is the policy of the State:

- a. To affirm labor as a primary social economic force;
- b. To afford protection to labor, facilitate employment and promote human resources development;
- c. To promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers;
- d. To adopt and conform to the generally accepted principles of international labor standards and principles of decent work, specifically the International Labor Organization Convention Number 181 on Private Employment Agencies and International Labour Organization Declaration on Decent Work;
- e. To regulate and recognize the participation of the private sector in the recruitment and placement of workers for local employment through a registration and licensing system;
- f. To recognize the need to protect the rights of the *Kasambahay* against abuse, harassment, violence, economic exploitation and performance of work that is hazardous to their physical and mental health; and
- g. To ensure safe and healthful working conditions, promote gender-sensitive measures in the formulation and implementation of policies and programs

affecting the local domestic work in order to protect the *Kasambahay* and recognize their special needs.

Section 2. Objectives. These guidelines shall be observed pursuant to the following:

- a. Protect and promote the welfare of jobseekers while providing them equal access to employment opportunities;
- b. Protect the rights of every citizen desiring to avail of the services of Private Employment Agencies (PEAs) and ensure that the best terms and conditions of employment are met;
- c. Promote employment facilitation through private entities as one of the principles under the decent work agenda;
- d. Recognize the role and participation of the private sector in employment generation for inclusive growth through recruitment and placement of workers for local employment; and
- e. Regulate and monitor the PEAs to ensure compliance with the pertinent provisions of the Labor Code of the Philippines, as amended, including but not limited to, the Anti-Trafficking in Persons Act of 2003, anti-child labor laws, and other related laws, rules and regulations.

Section 3. Coverage. These rules and regulations shall apply to persons, sole proprietors, partnerships, or corporations intending to engage or engaged in the recruitment and placement of domestic workers for local employment through a private employment agency.

Section 4. Definition of terms. For purposes of these rules and regulations, the following terms shall be referred to as:

- a. "*Analogous acts*" – acts of the *Kasambahay* prejudicial to the interests of the employer or to his/her family that may result to the severance of the employment relationship;
- b. "*Authority to operate branch office*" – a document issued by the Secretary through the Regional Director authorizing a PEA to establish and operate a branch office;
- c. "*Authority to Recruit (ATR)*" – document issued by the Secretary through the Regional Director authorizing a person to conduct recruitment activities for local employment on behalf of a PEA;
- d. "*Authorized representative*" – an employee of the agency authorized through a board resolution and Corporate Secretary's certificate or special power of attorney, as the case may be, assigned to conduct recruitment activities in behalf of the agency within the principal place of business of the licensee;
- e. "*BLE*" – Bureau of Local Employment;

- f. *“Contracting” or “Subcontracting”* – an arrangement whereby a principal agrees to farm out to a contractor the performance or completion of a specific job or work within a definite or predetermined period, regardless of whether such job or work is to be performed or completed within or outside the premises of the principal;¹
- g. *“Deployment expenses”* – expenses that are directly used for the transfer of the *Kasambahay* from 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;
- h. *“DOLE”* – Department of Labor and Employment;
- i. *“Domestic Worker” or “Kasambahay”* – 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.²

It shall exclude family drivers who shall be subject to the provisions of the New Civil Code, as amended and any related laws, rules and regulations.

- j. *“Domestic work”* – work performed in or for a household;
- k. *“Employer”* – any person who engages and controls the services of a *Kasambahay* and is party to the employment contract;
- l. *“Employment contract”* – 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;
- m. *“Field/Provincial Office”* – any district or provincial office of DOLE;
- n. *“Illegal recruitment”* – any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and includes referring, contact services, promising or advertising for employment abroad or locally, whether for profit or not, when undertaken by a non-license or non-holder of authority;
- o. *“Just causes”* – are those causes of termination enumerated under Rule VII, Section 3 of the Implementing Rules and Regulations (IRR) of the Domestic Workers Act which include: (1) Misconduct or willful disobedience by the *Kasambahay* of the lawful order of the employer in connection with the former’s work; (2) Gross or habitual neglect or inefficiency by the *Kasambahay* in the performance of duties; (3) Fraud or willful breach of the trust reposed by the employer on the *Kasambahay*; (4) Commission of a crime or offense by the

¹ Refer to Section 3(c) of D.O. No. 174, Series of 2017. Rules Implementing Articles 106 to 109 of the Labor Code, as amended.

² Refer to Article I, Section 4(d) of Republic Act No. 10361, “Domestic Workers Act” or “Batas Kasambahay”

Kasambahay against the person of the employer or any immediate member of the employer's family; (5) Violation by the *Kasambahay* of the terms and conditions of the employment contract and other standards set forth in the IRR; (6) Any disease prejudicial to the health of the *Kasambahay*, the employer, or member/s of the household; and (7) Other causes analogous to the foregoing;

- p. "*Labor-only contracting*" – arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job or work for a principal, and the arrangements enumerated under Section 5 of the DOLE Department Order No. 174, Series of 2017 or the Rules Implementing Articles 106 to 109 of the Labor Code, as amended, are present;
- q. "*License*"– document issued by the Secretary of DOLE through the Regional Director authorizing a person, partnership, or corporation to operate a PEA;
- r. "*License fee*" – a fee paid by the agency upon approval of the application;
- s. "*Management Representative*" – An employee occupying a management or supervisory position, such as (1) supervisor, (2) administrative officer, (3) operations manager or (4) HR manager as certified by a board resolution and Corporate Secretary's certificate or special power of attorney, as the case may be;
- t. "*Net worth*" – the difference between total assets and total liabilities;
- u. "*Paid-up capital*" – the amount contributed to the corporation representing the par value of the shares of stock, excluding any excess capital over and above the par;
- v. "*Private Employment Agency (PEA or agency)*" - any individual, partnership, corporation or entity licensed by the Department of Labor and Employment (DOLE) to engage in the recruitment and placement of workers for local employment;
- w. "*Public Employment Service Office (PESO)*" – 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;
- x. "*Recruit*" - any individual who is a Filipino citizen, promised, contracted, or enlisted for employment.

A recruit may also include stateless persons or refugees recognized by the Department of Justice;

- y. "*Recruitment and Placement*"- any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and includes 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;

- z. *“Regional Office”* - any of the Regional Offices of the Department of Labor and Employment having jurisdiction over the primary place of business and/or area where recruitment activities are to be undertaken;
- aa. *“Registration fee”* - fee assessed and paid by an applicant upon submission of complete requirements in the filing of an application for PEA license. Registration fee is non-refundable;
- bb. *“Service contract”* - the agreement entered into by and between the employer and the PEA stating clearly the terms and conditions of the service;
- cc. *“Service fee”* – the amount charged by an agency to a local employer as payment for actual services rendered in relation to the recruitment and placement of workers; and
- dd. *“TESDA”* - Technical Education and Skills Development Authority

ARTICLE II REGISTRATION OF PRIVATE EMPLOYMENT AGENCY

Section 1. Qualifications. The applicant for license to operate a PEA must possess the following:

- a. **Citizenship Requirement.** For single proprietorship, the applicant must be a resident Filipino Citizen.

For partnership or domestic corporation, at least 75% of the authorized capital stock must be owned and controlled by resident Filipino citizens;

- b. **Capital Requirement.** For single proprietorship, the applicant must have a minimum net worth of one million pesos (₱1,000,000.00).

For partnership or domestic corporation, the applicant must have a minimum paid-up capital of one million pesos (₱1,000,000.00), 75% of which must be owned by resident Filipinos as evidenced by the Articles of Partnership or Incorporation.

Section 2. Disqualifications. – The following are not qualified to engage in the recruitment and placement of workers for local employment as a PEA:

- a. Those who have pending cases with probable cause or convicted of illegal recruitment, trafficking in persons, anti-child labor law violation, or crimes involving moral turpitude;
- b. Those agencies, proprietors, partnerships, corporations whose licenses have been previously revoked or cancelled by the DOLE under these rules;

- c. Cooperatives whether registered or not under the Cooperative Act of the Philippines;
- d. Law enforcers and any official and employee of DOLE;
- e. Current PEA licensed sole proprietors are prohibited from securing another license to engage in local recruitment and placement;
- f. Sole proprietors, partnerships, or corporations licensed to engage in private recruitment and placement for local employment are prohibited from engaging in job contracting or subcontracting activities; and
- g. Technical-vocational training institutions and other training institutions.

Section 3. Requirements for application. The applicant shall submit a duly accomplished application form together with the complete requirements, as follows:

- a. Valid NBI Clearance of the applicant owner, or the partners in case of partnership, or in case of corporation, its officers and directors;
- b. For single proprietorships, certified true copies of the Certificate of Business Name Registration.

For partnerships and corporations, certified true copies of the Articles of Partnership, Certificate of Incorporation, By-Laws, and updated General Information Sheet (GIS) from the Securities and Exchange Commission;

- c. Documentary proof of ownership, such as Transfer Certificate of Title or Contract of Lease, of an office space with a floor area of at least forty (40) square meters for the exclusive use of the agency. In case of lease, the contract must be for a period of at least one (1) year with an option for renewal;
- d. Certificate of participation/attendance by the owner, partners, president, general managers, or agency's management representative to the Pre-Application Orientation;
- e. Certificate of No Pending Case from DOLE;
- f. Notarized Affidavit of Undertaking stating that the applicant shall:
 - 1. not collect fees whatsoever from the applicants;
 - 2. denounce and never support nor engage in any or all acts involving illegal recruitment, trafficking in persons, violation of Anti-Child Labor Laws or crimes involving moral turpitude or similar activities;
 - 3. not engage in illegal recruitment, trafficking in persons, anti-child labor violation, or crimes involving moral turpitude in relation to illegal recruitment activities;

4. assume full responsibility for all acts of its officers, employees, and representatives in the conduct of recruitment and placement activities;
5. not engage in job contracting or subcontracting;
6. provide bonds issued by bonding company accredited by Insurance Commission;
- g. For the net worth, notarized Statement of Assets, Liabilities, and Net Worth (SALN) or an audited financial statement duly received by the Bureau of Internal Revenue. For the paid-up capital, Articles of Partnership or Incorporation and certified true copy of the GIS.

Section 4. Venue. The application for license shall be filed in the Regional Office/Field Office having jurisdiction over the place where the applicant intends to establish its office. No application shall be accepted unless all the requirements have been complied with.

Section 5. Posting of application for license. The Regional Office concerned shall post in its official website the application for PEA license from the date of receipt until approval or denial.

Section 6. Payment of fees and posting of bonds. The following fees and bonds shall be paid by the applicant:

- a. Application fee in the amount of ₱5,000.00, which is non-refundable, shall be paid by the applicant upon submission of the application with the complete requirements;
- b. A license fee in the amount of ₱15,000.00, cash bond in the amount of ₱50,000.00 and surety bond in the sum of ₱100,000.00 shall be paid by the applicant upon approval of application.

The bonding company issuing the surety bond must be accredited by the Insurance Commission.

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

Section 7. Processing of new license. Within seven (7) working days from receipt of the application with the complete requirements and proof of payment of the application fee, the Regional Office shall evaluate the documents, conduct an ocular inspection of the office premises and equipment, and orient all employees of the PEA.

Within three (3) working days from the conduct of ocular inspection, the Regional Director may approve or deny the application for license to operate an agency.

In case of approved license, the Regional Office must indicate in the license the name of agency owner, the President, or authorized representative, as the case may be.

Section 8. *Grounds for denial.* The concerned Regional Office shall deny the application upon determination of any of the following grounds:

- a. Misrepresentation of facts in the application;
- b. Submission of falsified or tampered document;
- c. Existence of probable cause or conviction involving illegal recruitment, trafficking in persons, violation of anti-child labor laws, or crimes involving moral turpitude by the applicant, any of its officers, or authorized representatives; or
- d. Application by a person who is disqualified under Article II, Section 2 of this Rules.

Section 9. *Validity.* The license shall be valid for a period of three (3) years from the date of issuance unless sooner revoked or cancelled.

Section 10. *Renewal of License.* An application for renewal of license must be filed at least fifteen (15) days before its expiration. It must be accompanied by updated documentary requirements as provided under Sections 3 and 6, Article II of this Rules, including a photocopy of the existing license and proof of submission of placement reports. Also, application for renewal of license may be denied based on the grounds mentioned under Section 8, Article II of this Rules.

The validity of the renewed license shall start from the date of expiration of the previous license.

An application for renewal of an expired license shall be treated as new application.

Section 11. *Amendment or loss of license.* In case of amendment or loss of license, agency owner or authorized representative shall submit a letter request and payment of a fee of two thousand pesos (₱2,000.00) to the Regional Office which issued the license. In case of loss of license, the agency owner or authorized representative shall submit an affidavit of loss. The Articles of Incorporation shall also be submitted in case of corporation or partnership.

After evaluation, the Regional Director may issue a certified true copy of the license.

Section 12. *Overseas recruitment.* An agency duly licensed to recruit and place workers for local employment intending to engage in recruitment and placement for overseas employment must apply for a separate license from the Philippine Overseas Employment Administration (POEA).

The agency shall notify the issuing Regional Office of the existence of a license from POEA or the intent to apply for the same.

Section 13. *One license only for an agency engaged in recruitment and placement of both industry workers and Kasambahays.* An agency engaged in

recruitment and placement of both industry workers and *Kasambahays* need only to secure one (1) license from the Regional Office.

ARTICLE III DUTIES AND RESPONSIBILITIES OF PEA LICENSEE

Section 1. *Display of license and organizational structure.* The original license and organizational structure of the agency must be conspicuously and permanently displayed within the office premises of the agency.

Section 2. *Publication of vacancies.* Publication of job vacancies by the licensed PEAs in any platform shall bear the license number of the licensee. Unauthorized use of the DOLE logo is prohibited.

Section 3. *Non-transferability of license.* The license shall not be transferred, conveyed, or assigned to any other person or entity other than the one in whose favor it was issued.

Section 4. *Change of authorized representative.* Within twenty-five (25) days from date of such change, the agency must notify the Regional Office concerned in case there is a change of the President or authorized representative by submitting a Board Resolution or Secretary's certificate of election, letter of appointment or contract of employment, 2"x2" photos and NBI clearances.

After which, the Regional Office shall issue an amended license indicating the new President or authorized representative.

Section 5. *Change of address within the same region.* Within twenty-five (25) days prior to the date of transfer, an agency intending to transfer to a new place of business within the same region must notify the Regional Office concerned of such transfer and must submit the following requirements:

- a. Notification letter to the Regional Office requesting for reprinting of the license;
- b. Documentary proof of ownership, such as Transfer Certificate of Title or Contract of Lease, of an office space with a floor area of at least forty (40) square meters for the exclusive use of the agency. In case of lease, the contract must be for a period of at least one (1) year with an option for renewal;
- c. Location map and pictures of the new office for validation of office space;
- d. Updated surety bond;
- e. Amended Articles of Incorporation or Partnership, in case of corporation or partnership; and
- f. Proof of posting of new address in conspicuous places and publication in newspaper of local or general circulation.

Section 6. *Transfer of address to another region.* In case of transfer to another region, the agency owner or authorized representative shall notify the Regional Office that issued its license and the Regional Office which has jurisdiction over the new place of business. The agency owner or authorized representative shall also submit the following requirements to the concerned Regional Office, not less than thirty (30) days prior to the date of transfer:

- a. Notification letter to the Regional Office which has jurisdiction over the new place of business;
- b. Certificate of No Pending Case from DOLE;
- c. Documentary proof of ownership, such as Transfer Certificate of Title or Contract of Lease, of an office space with a floor area of at least forty (40) square meters for the exclusive use of the agency. In case of lease, the contract must be for a period of at least one (1) year with an option for renewal;
- d. Amended Articles of Incorporation or Partnership, in case of corporation or partnership;
- e. Updated surety bond and payment of new cash bond; and
- f. Proof of posting of new address in conspicuous places and publication in newspaper of local or general circulation.

The receiving Regional Office must conduct an ocular inspection of the agency's new office and equipment within ten (10) days from date of receipt of notification and complete requirements to ensure compliance thereof.

Section 7. *Change of ownership.* An agency desiring to change its ownership must submit a written notification and surrender its license to the issuing Regional Office for the cancellation thereof. The new owner/s of the agency must apply for a new license within ten (10) days after execution of the deed of transfer.

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

Section 8. *Notice of closure of the agency and its branch/es.* The agency or its branch office/s which cease to operate prior to the expiration of license or authority to operate shall notify the Regional Office concerned not less than twenty (20) days prior to closure stating the reason/s thereof.

A voluntary surrender of the license upon submission of a Notice of Closure shall entitle the agency to refund of its cash bond deposit, provided that a surety bond of similar amount shall have been posted. The agency may opt to maintain the cash bond within three (3) years from the date of filing of notice of closure.

Section 9. *Responsibilities.* The PEA shall undertake the following:

- a. Ensure that the *Kasambahay* is qualified as required by the employer;

- b. Secure the best terms and conditions of employment for the *Kasambahay*;
- c. Ensure that the employment agreement between the *Kasambahay* and the employer stipulates the terms and conditions of employment and all the benefits in accordance with the IRR of the Domestic Workers Act;
- d. Provide a Pre-Employment Orientation briefing to the *Kasambahay* and the employer about their rights and responsibilities in accordance with the IRR of the Domestic Workers Act;
- e. Ensure that the *Kasambahay* is not charged or required to pay any recruitment or placement fees;
- f. Keep copies of employment contracts and agreements pertaining to recruited *Kasambahay* which shall be made available during inspections or whenever required by the DOLE or local government officials;
- g. Assist the *Kasambahay* in filing his/her complaints or grievances against the employers;
- h. Cooperate with government agencies in rescue operations involving abused or exploited *Kasambahay*; and
- i. Assume joint and solidary liability with the employer for payment of wages, wage-related and other benefits, including monthly contribution for Social Security System (SSS), Home Development Mutual Fund (HDMF), and Philippine Health Insurance Corporation (PhilHealth) membership.

ARTICLE IV AUTHORITY TO RECRUIT

Section 1. Authority to Recruit. The authority shall be required in case the recruitment activity is conducted outside the principal place of business by any person other than the licensee, in case of sole proprietorship, or authorized representative, in case of partnership or corporation.

It shall be issued by the Regional Office having territorial jurisdiction over the place where the recruitment activity is to be conducted.

Section 2. Application Requirements. The application shall only be processed upon submission of the complete requirements to the Regional Office having territorial jurisdiction over the place where the recruitment activity will be conducted, as follows:

- a. Letter request by the agency indicating the list of job vacancies, potential employers, exact date and venue of the recruitment activity, and the names of the designated representatives;
- b. Certified True Copy of valid PEA license;

- c. NBI Clearance of the authorized representative; and
- d. Certificate of No Pending Case from DOLE.

Section 3. *Grounds for denial.* The application shall be denied on any of the following grounds:

- a. Misrepresentation of facts in the application;
- b. Submission of falsified or tampered document;
- c. Pendency of a case for violation of these rules, the Labor Code, its implementing rules or related issuances;
- d. Conviction or existence of probable cause involving illegal recruitment, trafficking in persons, violation of anti-child labor laws, or crimes involving moral turpitude by the applicant, any of its officers or authorized representatives; or
- e. Authority to recruit has been previously revoked or cancelled.

Section 4. *Processing and payment of fees.* Within three (3) working days from receipt of complete documents, the Regional Director may deny or approve the application. In case of approved application, the authority shall be issued within two (2) working days upon payment of registration fee of five hundred pesos (₱500.00).

Section 5. *Validity.* The authority shall be valid in the date and venue as indicated for a maximum of five (5) days. The recruitment activity shall be conducted during the normal business hours.

Section 6. *Cancellation or revocation.* The authority shall be cancelled upon issuance of an order by the concerned Regional Office for violation of the conditions set therein.

Section 7. *Loss of Authority.* In case of loss, the holder of authority shall submit an Affidavit of Loss and payment of replacement fee of five hundred pesos (₱500.00).

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

ARTICLE V AUTHORITY TO OPERATE BRANCH OFFICE

Section 1. *Application.* A licensed agency shall apply for an Authority to Operate Branch Office with the Regional Office having jurisdiction over the intended location of the branch office.

Section 2. *Requirements.* The application shall be processed upon submission of the duly accomplished application form to the Regional Office having jurisdiction over the intended location of the branch office with complete requirements and payment of fees, as follows:

- a. Certified true copy of the valid PEA license;
- b. Organizational structure of the branch office, including names of manager and staff members;
- c. NBI Clearance of the branch manager and staff members; and
- d. Certification that the branch office has an office space of at least 30 square meters for the exclusive use of the branch office.

Section 3. *Payment of fees and posting of bonds.* The following fees and bonds shall be paid by the applicant:

- a. Registration fee in the amount of ₱5,000.00, which is non-refundable, upon submission of the application with the complete requirements; and
- b. Separate surety bond in the amount of ₱100,000.00, co-terminus with the validity of the license, upon approval of the Authority to Operate Branch Office.

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

Section 4. *Processing.* Within seven (7) working 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 and equipment.

Within three (3) working days from the conduct of ocular inspection, the Regional Director may approve or deny the application.

If approved, the authority shall be issued in the name of the agency owner, President, or authorized representative.

Section 5. *Validity.* The validity of authority is co-terminus with the license, unless such license or authority is revoked or cancelled for violation of the Labor Code of the Philippines, as amended, and other related laws.

Section 6. *Renewal.* An application to renew an authority shall be filed at least fifteen (15) days before the date of its expiration together with the updated valid documentary requirements as provided under Sections 2 and 3, Article V and a copy of the existing Authority to Operate Branch Office. The renewed authority shall be issued within three (3) working days from receipt of complete requirements and effective on the expiration date of the previous authority.

Section 7. *Grounds for denial of application.* The application for authority and the renewal thereof shall be denied on any of the following grounds:

- a. Misrepresentation of facts in the application;

- b. Submission of falsified or tampered document;
- c. Conviction or existence of probable cause involving illegal recruitment, trafficking in persons, violation of anti-child labor laws, or crimes involving moral turpitude by the applicant, any of its officers or authorized representatives; or
- d. Authority to Operate Branch Office has been previously revoked or cancelled.

Section 8. Loss of Authority. In case of loss, the holder of the authority shall submit an affidavit of loss and pay a replacement fee of two thousand pesos (₱2,000.00) after which the Regional Director may issue a certified true copy of the Authority to Operate Branch Office.

Section 9. Notice of establishment of branch office. An agency granted authority shall notify the Regional Office which issued the license within ten (10) days upon receipt of the approved authority.

ARTICLE VI FEES AND CHARGES

Section 1. Fees and charges. No fees or cost shall be collected from the recruited worker or deducted from the salaries or wages of the *Kasambahay*. An agency may only charge the service fee to the employers based on the contract of service.

Section 2. Cost of recruitment and placement. The cost of the pre-employment requirements shall be borne by the prospective employer or the agency, as the case may be. In no case shall the recruitment or finder's fees be charged against the *Kasambahay*.

The employer shall pay the expenses directly used for the transfer of the *Kasambahay* from the place of origin to the place of work. The employer may recover deployment costs from the *Kasambahay* whenever the employment relationship is terminated within six (6) months without just cause.

However, cash advances made by the *Kasambahay* may be deducted from the respective salaries or wages of the *Kasambahay* as maybe stipulated in the employment contract.

Section 3. Issuance of official receipt. An official receipt indicating the amount and the purpose thereof shall be issued for all payments or fees made to or collected by the PEA.

ARTICLE VII RECRUITMENT AND PLACEMENT

Section 1. Recruitment procedures for provincial recruitment. The owner or authorized representative of the PEA must abide by the following procedures:

- A. For provincial recruitment:

1. *Pre-recruitment* - Present a copy of a valid license and Authority to Recruit to the PESO where the recruitment activity is to be undertaken. The Field/Provincial Office shall monitor and the PESO, in coordination with the barangay officials, shall supervise the conduct of the said activity.
2. *During recruitment* – The agency shall require the recruit to submit a résumé and other supporting documents such as training certificates, if required by the PEA.

The PESO and barangay officials shall ensure that the agency's authorized representative/s evaluate/s the documents submitted by the applicants, conduct/s a preliminary interview to determine if the applicants are fit, capable and willing to work as well as provide information that the prospective employment is not harmful to public health or morality or to the dignity of the applicants.

3. *Post-recruitment* - Submit to the PESO where the recruitment activity has been undertaken a list of the names, addresses, and potential employers of its recruits for appropriate authentication and validation. The PESO shall submit to the Field/Provincial Office the post-recruitment activity report within ten (10) days after the conduct of recruitment activity.

- B. For walk-in applicants, the agency may implement its own internal rules and procedures subject to the existing laws, rules, and regulations under the Labor Code of the Philippines, as amended, and other related laws.

Section 2. Placement procedures for provincial recruits. – The following procedures shall be followed by the agency or its authorized representative in the placement of the recruits:

- a. In case of provincial recruits and when necessary, provide the recruits a free, convenient and separate housing accommodation for men and women, including food.

Bring the recruit to the prospective employer for an interview between the employer and the recruit within three (3) days upon arrival;

- b. Prior to placement, provide Pre-Employment Orientation (PEO) on such matters such as the rights and responsibilities of the workers, obligation of employers, grievance mechanism, location/address, contact details of the agency and information on other possible support groups;
- c. The employer may require the following from the *Kasambahay*:
 1. Medical Certificate or a Health Certificate issued by a local government health officer;
 2. Barangay Clearance;

3. Police Clearance;
 4. NBI Clearance; and
 5. Duly authenticated birth certificate or if not available, any other document showing the age of the *Kasambahay* such as voter's identification card, baptismal record or passport.
- d. 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;
 - e. Require the employer to submit clearance from the Barangay Office and the NBI or Philippine National Police;
 - f. Inform the family of the *Kasambahay* of the name and address of the employer and regularly update them on the employment status or situation; and
 - g. Inform the employer to register the domestic worker with the Barangay Office having jurisdiction over the place of work.

In case the placement of the recruited worker is to another region, secure from the Regional Office for a certification that the recruitment activity is in accordance with these rules, and if requested, provide a copy to the Barangay Office, Local Government Unit concerned, Marine Police/Coast Guard/Philippine National Police, Philippine Ports Authority/Air Transportation Office, having jurisdiction over the place of destination.

ARTICLE VIII REMEDIES OF EMPLOYER

Section 1. *Replacement of Kasambahay.* In case the circumstances listed below occurred within one (1) month from the first day the *Kasambahay* reported for work, the PEA shall immediately provide qualified replacement from date of request at no additional cost to the employer:

- a. The *Kasambahay* is found to be suffering from an incurable or contagious disease, or mental illness as certified by a competent or government physician;
- b. The *Kasambahay* abandons the job without justifiable cause, voluntarily resigns, commits theft or any other analogous acts prejudicial to the employer or his/her family; or
- c. The *Kasambahay* is physically or mentally incapable of discharging the minimum normal requirements of the job, as specified in the employment contract.

If such replacement is not provided, the employer shall be entitled to a refund of seventy-five percent (75%) of the deployment expenses or fees paid to the PEA.

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.

ARTICLE IX COMPLAINTS AND APPEALS

Section 1. *Filing of complaints.* Written complaints against the employer/s, agency owner/s and/or authorized representative/s based on any of the grounds enumerated under Section 1, Article X of these Rules shall be filed with the Regional Office which issued the license.

A complaint against the employer for an unpaid wages and benefits must be filed in the Regional Office having jurisdiction over the place of work in accordance with existing DOLE policies and rules.

For purposes of documentation and possible endorsement to the Prosecutor's Office, a criminal complaint against the employer/s, agency owner/s or representative/s may be filed in the Regional Office where the act was committed, or complainant's place of residence, at the option of the complainant.

Section 2. *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 3. *Answer.* Upon from 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 of the Order, a verified answer, attaching all pertinent documents in support of its defense. Respondents shall furnish the complainants a copy of verified answer and submit proof of service thereto. 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.

Likewise, the Regional Director may issue Notice of Hearing directing the parties to attend conferences, as may be necessary.

Section 4. *Failure to file answer.* Failure to file an answer/counter affidavit within ten (10) days from receipt of show cause order shall constitute a 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 5. *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 Director may act on the case as based on the merits of the results of the investigation and impose such penalties on the erring agency as may be deemed appropriate or endorse the same to the Prosecutor, in case of criminal complaint.

Section 6. *Resolution of the case.* The Regional Director shall resolve the case within fifteen days from the time the case is deemed submitted for decision.

Section 7. *Suspension of license pending investigation.* Pending investigation and hearing of a complaint for any violation of these rules, the Regional Director may suspend the license of the agency on the following grounds:

- a. Existence of 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; or
- b. Failure to attend two (2) consecutive hearings without valid cause despite due notices.

Section 8. *Appeal from the Order of 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 the 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.

The Office of the Secretary shall resolve the appeal within sixty (60) days from receipt of the notice of appeal.

Section 9. *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.

ARTICLE X OFFENSES

Section 1. *Classification of offenses.* Administrative offenses are classified into serious and less serious, depending on the gravity. The Regional Director, after observance of due process, shall impose the appropriate administrative penalties in every recruitment violation.

- a. Serious offenses are those that, by their nature and effect, are punishable by the penalty of cancellation of license/or authority, which includes the following:
 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, its renewal, or in connection with recruitment and placement of workers;
 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 in relation to the process of recruitment and placement;
 6. 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;
 7. Obstructing or attempting to obstruct inspection by the Secretary, the Regional Director or their duly authorized representatives;
 8. 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;
 9. Influencing or attempting to influence any person or entity not to employ any worker who has not applied for employment through his agency;
 10. Coercing workers to accept prejudicial arrangements in exchange for certain benefits that rightfully belong to the workers;
 11. Violation of other pertinent provisions of the Labor 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.
- b. Less serious offenses are those that, by their nature and effect, are punishable by the penalty of suspension to cancellation of license/authority, which includes the following:

1. Engaging in recruitment activities in places other than that specified in the authority to recruit without previous authorization from the DOLE;
2. Failure to provide Pre-Employment Orientation (PEO) to workers;
3. Failure to submit within the prescribed period the required reports related to local recruitment and placement; and
4. Disregard of orders, notices and other legal processes issued by the DOLE.

For the imposition of the proper penalty under the less serious offenses, the following must be followed:

First offense: two (2) months to six (6) months suspension of license/ or authority.

Second offense: six (6) months suspension of license/ or authority to one (1) year.

Third offense: cancellation of license/ or authority.

Section 2. *Fines.* The Regional Director shall have the power to impose the following penalties:

- a. For serious offenses, cancellation of license and/or authority and a fine of ten thousand pesos (₱10,000.00) for every count of offense committed.
- b. For less serious offenses, suspension or cancellation of license/or authority, depending on the number of offenses committed, and a fine of eight thousand (₱8,000.00) pesos for every count of offense committed.

This provision does not preclude the injured party from securing other available legal remedies.

Section 3. *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.

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 comes later.

ARTICLE XI MONITORING

Section 1. *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 whenever recruitment and placement activity is being undertaken pursuant to Article 37 and 128 of the Labor Code of the Philippines, as amended and existing policies.

Section 2. Submission of reports by the agency. The agency shall submit a hardcopy of the monthly recruitment and placement reports using the prescribed format to the concerned Regional Office within seven (7) days after each reference month.

Likewise, a computerized softcopy of the report in Microsoft word or excel format shall be subsequently submitted through electronic mail to the concerned Regional Office, copy furnished the Bureau of Local Employment.

An agency engaged in the recruitment and placement of both industry workers and *Kasambahay* must submit separate reports for industry workers and *Kasambahay*, respectively.

Section 3. Submission of reports by the Regional Office. The Regional Office shall submit monthly summary reports using the prescribed format to the Bureau of Local Employment within fifteen (15) days after each reference month.

ARTICLE XII MISCELLANEOUS PROVISIONS

Section 1. 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 2. Repealing Clause. All guidelines, rules and regulations, procedures and agreements inconsistent herewith are hereby repealed or modified accordingly.

Section 3. Effectivity. This Rules shall take effect after fifteen (15) days from the date of its publication in one (1) newspaper of general circulation or in the Official Gazette.

27 OCT 2020 2020


SILVESTRE H. BELLO III
Secretary

Dept. of Labor & Employment
Office of the Secretary

