

[DOLE Department Order No. 146-15, August 20, 2015]

**REVISED RULES FOR THE ISSUANCE OF EMPLOYMENT PERMITS
TO FOREIGN NATIONALS**

Adopted: 20 August 2015

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Pursuant to the provisions of Articles 5, 40, 41 and 42 of PD 442, as amended, the provisions of Rule XIV, Book 1 of its Implementing Rules and Regulations, Section 17(5), Chapter 4, Title VII of the Administrative Code of 1987, the following Rules are hereby promulgated to govern the employment of foreign nationals:

Policy Declaration

The Alien Employment Permit (AEP) is not an exclusive authority for a foreign national to work in the Philippines. It is just one of the requirements in the issuance of a work visa (9g) to legally engage in gainful employment in the country. The foreign national must obtain the required Special Temporary Permit (STP) from the Professional Regulation Commission (PRC) in case the employment involves practice of profession and Authority to Employ Alien from the Department of Justice (DOJ) where the employment is in a nationalized or partially nationalized industry.

Section 1. Coverage. – All foreign nationals who intend to engage in gainful employment in the Philippines shall apply for Alien Employment Permit (AEP).

As used in this Rules, gainful employment shall refer to a state or condition that creates an employer-employee relationship between the Philippine based company and the foreign national where the former has the power to hire or dismiss the foreign national from employment, pays the salaries or wages thereof and has authority to control the performance or conduct of the tasks and duties.

Section 2. Exemption. – The following categories of foreign nationals are exempt from securing an employment permit:

- a. All members of the diplomatic service and foreign government officials accredited by and with reciprocity arrangement with the Philippine government;
- b. Officers and staff of international organizations of which the Philippine government is a member, and their legitimate spouses desiring to work in the Philippines;
- c. All foreign nationals granted exemption by law;

- d. Owners and representatives of foreign principals whose companies are accredited by the Philippine Overseas Employment Administration (POEA), who come to the Philippines for a limited period and solely for the purpose of interviewing Filipino applicants for employment abroad;
- e. Foreign nationals who come to the Philippines to teach, present and/or conduct research studies in universities and colleges as visiting, exchange or adjunct professors under formal agreements between the universities or colleges in the Philippines and foreign universities or colleges; or between the Philippine government and foreign government: provided that the exemption is on a reciprocal basis; and
- f. Permanent resident foreign nationals and probationary or temporary resident visa holders under Section 13 of the Philippine Immigration Act of 1940.

Section 3. Exclusion. – The following categories of foreign nationals are excluded from securing an employment permit:

- a. Members of the governing board with voting rights only and do not intervene in the management of the corporation or in the day to day operation of the enterprise.
- b. Corporate officers as provided under the Corporation Code of the Philippines, Articles of Incorporation, and By-Laws of the Corporation such as President, Secretary and Treasurer.
- c. Those providing consultancy services who do not have employers in the Philippines.
- d. Intra corporate transferee who is a manager, executive or specialist as defined below in accordance with Trade Agreements and an employee of the foreign service supplier for at least one (1) year prior to deployment to a branch, subsidiary, affiliate or representative office in the Philippines.
 - (i) an Executive: a natural person within the organization who primarily directs the management of the organization and exercises wide latitude in decision making and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the business; an executive would not directly perform tasks related to the actual provision of the service or services of the organization;
 - (ii) a Manager: a natural person within the organization who primarily directs the organization/department/subdivision and exercises supervisory and control functions over other supervisory, managerial or professional staff; does not include first line supervisors unless employees supervised are professionals; does not include employees who primarily perform tasks necessary for the provision of the service; or
 - (iii) a Specialist: a natural person within the organization who possesses knowledge at an advanced level of expertise essential to the establishment/provision of the service and/or possesses proprietary knowledge of the organization's service, research equipment, techniques or management; may include, but is not limited to, members of a licensed profession.

- e. Contractual service supplier who is a manager, executive or specialist and an employee of a foreign service supplier which has no commercial presence in the Philippines:
 - (i) who enters the Philippines temporarily to supply a service pursuant to a contract between his/her employer and a service consumer in the Philippines;
 - (ii) must possess the appropriate educational and professional qualifications; and
 - (iii) must be employed by the foreign service supplier for at least one year prior to the supply of service in the Philippines.

Section. 4. Procedure in the Processing of Applications for AEP. –

- a. All applications for AEP shall be filed and processed at the DOLE Regional Office or Field Office having jurisdiction over the intended place of work.

A duly accomplished application form with the following complete documentary requirements must be submitted:

- 1. photocopy of Passport with visa, or Certificate of Recognition for Refugees or Stateless Persons;
 - 2. Original copy of notarized appointment or contract of Employment enumerating the duties and responsibilities, annual salary, and other benefits of the foreign national;
 - 3. photocopy of Mayor's Permit to operate business, in case of locators in economic zones, Certification from the PEZA or the Ecozone Authority that the company is located and operating within the ecozone, while in case of a construction company, photocopy of license from PCAB or DO 18-A Registration should be submitted in lieu of Mayor's Permit; and
 - 4. copy of employer's understudy training program to be conducted by the foreign national to transfer knowledge and/or skills to the Filipino worker.
- b. In the case of foreign nationals to be assigned in related companies, applications may be filed in the Regional Office or Field Office having jurisdiction over any of the applicant's intended places of work.
- c. Additional position of the foreign national in the same company or subsequent assignment in related companies during the validity or renewal of the AEP will be subject for publication requirement. A change of position or employer shall require an application for new AEP.
- d. At any given time only one AEP shall be issued to a foreign national. A foreign national may be issued one (1) AEP only at any given time.