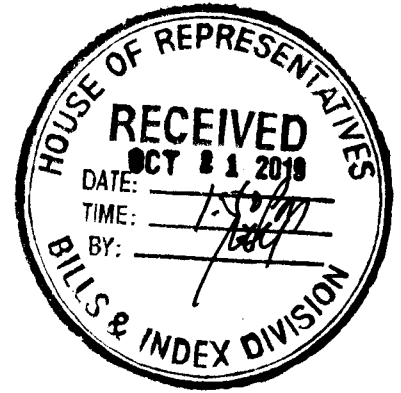


**Republic of the Philippines  
Congress of the Philippines  
Metro Manila  
Eighteenth Congress  
First Regular Session  
5171**



Introduced by:

**Fidel F. Nograles  
Second District  
Province of Rizal**

**Explanatory Note**

Our Overseas Filipino Workers (OFWs) are considered to be our "modern-day heroes" not only for their remittances that contributes to the country's Gross Domestic Product, but also for their sacrifice of having to leave their families behind just to uplift the quality of lives of their loved ones. Some find their fortune abroad, while some experiences are harsher than others.

As of 2018, there are around 10.08-million Overseas Filipinos around the globe. Together, they drive of domestic consumption and account for 9.7 percent of the Gross Domestic Product in 2018. Particularly, the Bangko Sentral ng Pilipinas reports that, in 2018, cash remittances from overseas Filipinos have amounted to USD 28.943 Billion<sup>2</sup>. This is in addition to remittances in kind or in the form of investments that migrant Filipino workers send here in the country.

During the period April to September 2018, the number of OFWs who went abroad was estimated at 2.3 million. Of these, Overseas Contract Workers (OCWs) or those with existing work contract comprised 96.2 percent, while the rest (3.8%) worked overseas without contract (2018 *Survey on Overseas Filipinos of the Philippine Statistics Authority which used the term OCW*).

Thus, the government has recognized the need to cater to the concerns of these OFWs and OCWs through the creation of government agencies mandated to oversee overseas employment. Among these are the Department of Labor and Employment (DOLE), the Philippine Overseas Employment Agency (POEA), the Overseas Workers Welfare Administration (OWWA), and the Department of Foreign Affairs - Office of the Undersecretary for Migrant Workers Affairs (DFA-OUMWA). There are also other agencies that have programs and projects for OFWs such as Technical Education and Skills Development Authority (TESDA), Department of Social Welfare and Development

(DSWD), Social Security System, among others. The absence of a single agency to address foreign employment concerns has made it difficult for the government to focus on the needs and demands of foreign Filipino employment, in general, and of OFWs, in particular

Overseas employment has been beset with persistent problems, foremost of which are (1) abusive foreign employers (2) illegal recruiters, (3) traffickers, and (4) slow justice system in the regular courts. A new Department for Overseas Filipinos can provide remedies to these and other problems. There is a pressing need to establish an agency that would manage, harmonize, and strengthen existing policies and programs to address the needs of foreign Filipino employment.

This bill creates the new Department which will lay down new programs that will be realistic in approaching given situations or differences in overseas employment, like: the application of which labor laws – that of the country of work or of the Philippines; the liability of the foreign employers vis-a-vis the blind application of joint and solidary liability of their counterpart Philippine recruitment agencies; the fact that as OFWs, by legal definition include applicants who are promised or assured of employment abroad, the victims of illegal recruitment and trafficking in person should be called OFWs also; the setting up of concurrent jurisdiction of the regular courts with the labor tribunals on the money (civil) claims of these victims for speedy recovery; the necessary creation of a quasi-judicial labor tribunal for cases involving OFWs and these victims; which will be attached to the new department; the creation of efficient conciliation and mediation that extends to the overseas labor offices; the strengthening of the Anti-Illegal Recruitment Branch of POEA with the mission of eradicating illegal recruitment; the professionalization of the overseas labor official; the utilization of the acquired talent and skills of returning overseas Filipinos, who are mostly eager to share, the creation of a research and development office that will serve as the “think tank” of the department for migration and development; and the many more.

In view of the foregoing, immediate approval of this measure is earnestly requested

  
FIDEL F. NOGRALES

**Republic of the Philippines  
Congress of the Philippines**

**Metro Manila**

**Eighteenth Congress  
First Regular Session**

**House Bill No. 5171**

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Introduced by:

**Juan Fidel Felipe F. Nograles  
Second District  
Province of Rizal**

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**“An Act Establishing the Policy for the Protection and Promotion of the Welfare of Overseas Filipinos and Creating for this Purpose the Department of Overseas Filipinos and the Overseas Labor Relations Commission, Defining their Powers and Functions, Rationalizing the Organization and Functions of Other Agencies Related to Overseas Filipinos, Appropriating Funds Therefor, and For Other Purposes”**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

**Section 1. *Short Title*** – This law shall be known as the “**Department of Overseas Filipinos Act.**”

**Section 2. *Declaration of Policies*** – It is the declared policy of the State:

1. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.
2. The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.
3. The State shall encourage non-government, community based, or sectoral organizations that promote the welfare of the nation.
4. The State shall recognize the roles and contributions of licensed recruitment agencies as providers of employment opportunities, as vital forces for national development, and as co-protectors of overseas Filipino workers. It shall also provide them and their representative organizations the commensurate support and necessary incentives, facilities, and means for self-regulation.
5. The State recognizes the vital role of communication and information in nation building.
6. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment, and equality of employment opportunities for all.

**Republic of the Philippines  
Congress of the Philippines  
Metro Manila  
Eighteenth Congress  
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**5171**

Introduced by:

**Juan Fidel Felipe F. Nograles  
Second District  
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5. The State recognizes the vital role of communication and information in nation building.
6. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment, and equality of employment opportunities for all.

7. It shall guarantee the rights of all workers to xxx participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.
8. The State shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers;
9. The State, in regulating the participation of the private sector in the overseas employment program to ensure protection to labor, affirms the management prerogatives of employers, and shall take market forces into consideration.
10. The State shall promote the principle of shared responsibility between workers and employers, OFWs and licensed recruitment agencies, and the preferential use of voluntary modes in settling disputes, including conciliation, mediation and arbitration. In the regulation of the overseas employment program, the State shall adopt a developmental approach in rule-setting and enforcement.
11. The State shall affirm the principle of tripartism - ensuring the principles of prior and effective consultations--by balancing representation between labor, management, and government in all aspects of policy-making concerning overseas work.
12. The State, in regulating the participation of the private sector in the overseas employment program to ensure protection to labor, affirms the management prerogatives of employers, and shall take market forces into consideration.
13. The State shall promote the national interest in foreign policy, affirm its primary responsibility to protect and uphold the interests of all its citizens, both natural and juridical, who are stakeholders in the overseas employment program.
14. Consistent with national interest, the State shall, as far as practicable, ensure the harmonization of domestic and foreign laws applicable to OFWs through bilateral or multilateral agreements.
15. The State shall promote the empowerment of OFWs and their families, both at home and overseas, as well as provide them access to timely and relevant information, education, training, and support. It shall likewise

ensure safe, responsible, and accountable migration for work, leveraging their potential and their strengths.

16. The right of Filipino migrant workers and of all overseas Filipinos to participate in the democratic decision-making processes of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed;
17. The State recognizes the significant contribution of Filipino migrant workers and overseas Filipinos to the national economy through their foreign exchange remittances and investments, the State does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizens shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development. Toward this end, the State shall continually aim to make migration a choice and not a necessity for every Filipino worker;
18. The State further affirms that the Filipino family, as a basic autonomous social institution, is the foundation of the nation. Accordingly, the solidarity of the families of OFWs shall be strengthened and their total development shall be actively promoted;

### **Section 3. *Definition of Terms* -**

1. ***Act*** - the Department of Overseas Filipino Act
2. ***Overseas Filipino Worker (OFWs)*** - a person who is to be engaged, is engaged, or has been engaged, in a remunerated activity in a State where he or she is not a national or on board a vessel registered in a State where he or she is not a national and/or navigating foreign seas other than a government ship used for military or non-commercial purposes, or on an installation located offshore or on the high seas. A “person to be engaged in a remunerated activity” refers to an applicant worker who has been promised or assured of employment overseas who are victims of illegal recruitment activities, trafficking and other illegal or prohibited acts of unlicensed persons or entities.
3. ***Overseas Contract Worker (OCW)*** - An OFW who secure employment abroad through the legal channels, like through the licensed recruitment

agencies, whose documentations have been duly processed by government agencies, and with overseas employment contracts which are approved by the proper authority.

4. ***Overseas Seafarer*** – an Overseas Filipino Worker who is employed or engaged to work in overseas employment in any capacity on board a ship other than a government ship used for military or non-commercial purposes. This shall include fisher folk, cruise ship personnel, and those serving on mobile offshore and/or drilling units in the high seas;
5. ***Irregular OFWs or Migrants Workers*** – refers to OFWs who are not OCWs or
  - a. Those who acquired their passports and/or other travel documents through fraud or misrepresentation;
  - b. Those who possess expired visas or permits to stay;
  - c. Those who have no travel documents whatsoever;
  - d. Those who have valid but inappropriate visas; and
  - e. Those who have been improperly documented.
6. ***Overseas Employment*** – employment of a worker outside the Philippines;
7. ***Overseas Filipinos*** – Filipino nationals, and their dependents abroad, including Filipinos who are permanent residents abroad;
8. ***Overseas Filipino Workers in Distress*** – an Overseas Filipino Workers, whether OCWs or irregular workers, who have medical, psycho-social, or legal assistance problem requiring treatment, hospitalization, counselling, legal representation, or any kind of intervention with the authorities in the country where he or she is found. This term shall include victims of illegal recruitment who requires legal representation against illegal recruiters.
9. ***Employer*** – for purposes of this Act, any foreign person, natural or juridical, employing the services of Overseas Filipino Workers.
10. ***Private Recruitment/Manning Agency*** – any person, company, institution, agency, or organization which, not being the employer of the Overseas Contract Worker, acts as an intermediary for the purpose of procuring employment for Overseas Contract Workers or supplying Overseas Contract Workers for an employer in another State with a view of deriving either directly or indirectly any pecuniary or other material advantage;

11. ***Foreign Recruitment Agency*** – any foreign person, company, institution, agency, or organization which acts as an intermediary for the purpose of procuring employment for Overseas Contract Workers or supplying Overseas Contract Workers for an employer, or the employer itself, in the State where they are operating with a view of deriving either directly or indirectly any pecuniary or other material advantage;
12. ***The Commission or OLRC*** – The Overseas Labor Relations Commission;
13. ***OLA*** – The Overseas Labor Arbiters;
14. ***Secretary*** – the Secretary of the Department of Overseas Filipinos.
15. ***Perfection of Overseas Employment Contract*** – occurs when the OFW and the foreign employer, acting through the PRA, agrees to the object, cause, as well as the rest of the terms and conditions of the overseas employment contract. This is evidenced by the signing of the overseas employment contract.
16. ***Commencement of employer-employee relationship*** – takes place once the OCW leaves the Philippines for the host country to work.
17. ***Host Country*** – means the foreign country where an OFW is working.

## **PART I**

### **THE DEPARTMENT OF OVERSEAS FILIPINOS**

**Section 4. *Creation of the Department of Overseas Filipinos*** – There is hereby created a ***Department of Overseas Filipinos***, herein referred to as the Department, headed by a Secretary who is aided by five (5) Undersecretaries and Assistant Secretaries.

**Section 5. *The Mandate*** - The Department shall be the primary agency of the Executive Branch of the government for planning, policymaking, programming, coordinating, administering and implementing laws, rules and regulations for overseas Filipinos including migrant workers or Overseas Filipino Workers. It shall promote, protect and defend the welfare and interests of all Overseas Filipinos.

The Department shall render an annual report of its activities and achievements to the President and to Congress.



**Section 6. *Functions*** – The Department shall have the following functions:

1. Formulate, recommend and implement national policies, plans, programs and guidelines that will ensure the protection of Overseas Filipinos and OFWs, and address the problems that they face abroad in consultation with all relevant stakeholders in the spirit of tripartism;
2. Establish an institute that shall collect and assess information, conduct in-depth studies and estimates, organize local and international conferences and fora, call for papers on global migration and development trends, perspectives and prospects, publish peer-reviewed papers and undertake consultations with relevant stakeholders, in support of evidence-based policy making generating options for the protection of all OFWS, and migrants and the promotion of their rights and welfare in all aspects, including return-migration;
3. Enforce social and labor legislation to protect the Overseas Filipinos and regulate deployment of Filipinos abroad for overseas employment to countries which respect the right and dignity of workers, including Filipino workers, and with laws that prove that;
4. Formulate and recommend policies, plans and programs for the development of skills, training, including upgrading of training and skills of Filipinos applying for work abroad, to ensure full capacity and capability, acknowledged responsibility and over-all preparedness in all aspects of overseas employment, be it emotional or psychological or what is called “social cost of migration”;
5. Assess, review, harmonize, and coordinate all OFW-related local policies and procedures and international agreements to ensure overall consistency and implementation of the national policies;
6. Recommend legislations to enhance the material, social, and intellectual improvement of Overseas Filipino Workers, as they prepare to work abroad and their reintegration and/or utilization as they return from working abroad;
7. Protect and promote the interest of every citizen desiring to work overseas by securing for them the most equitable terms and conditions of employment, consistent with the law and policy of the host country, like the minimum wage they shall be paid, the provision for safe, decent, humane, and improved working conditions and environment, with special

consideration to occupational safety and health, for all Filipino workers, especially women, overseas, and by providing social and welfare services.

8. Protect and enhance the overseas workers welfare fund, securing them for OFW members and their families, for whom they are contributed; providing for a separate fund for those who are not member of the fund;
9. In consultation with the private sector and other relevant stakeholders under the principle and spirit of tripartism, and with the sectoral representation, formulate evidenced-based policies and, taking market forces into consideration, enforce a simplified framework of rules and regulations for the participation, licensing, and management of the private recruitment and manning agencies in the program for overseas employment;
10. Formulate policies and enforce a framework for the strict implementation of a program that shall ensure that the foreign employers who shall hire our Filipino workers pass stringent qualifications tests to ensure that they have full capacity, understanding and acceptance of the terms and conditions and of mutual obligations contained in the overseas employment contract and that they shall respect the dignity of our workers as human beings like them; further ensuring that affordable, speedy and adequate mechanisms and means are in place to ensure their compliance with their employment contracts through such assurances as posting of bonds by the Foreign Recruitment Agencies for every Filipino domestic helper/workers or and other vulnerable workers they hire; and with a system of their watchlisting and blacklisting
11. Formulate policies and enforce a framework for the protection of Filipinos overseas who are not overseas workers, ensuring and protecting their welfare, and providing for a program of incentives to allow them to contribute their skills, knowledge and other resources when they return to our country;
12. Formulate a framework that shall professionalize the corps of overseas labor officers, establishing a competitive examination, akin to the examination of commercial attaches', which they should pass before they can enter the service and which is cognizable as civil service eligibility; establishing an academy and cadetship training program for the purpose;
13. Enforce social and labor legislation to protect Filipinos desiring to go overseas from the evils of illegal recruiters and traffickers in persons committed by means of, or in the guise of recruitment for overseas

employment, continuously formulating new policies and developing new framework to eradicate illegal practices in overseas employment;

14. Provide and ensure fair and expeditious resolution of labor issues or disputes, employing any and all possible means, like conciliation, mediation, and arbitration, voluntary or compulsory, equally ensuring that in case of settlement, the immediate and full execution of settlement, that is payment, of the award to the overseas workers, as well as the recognition of said settlement as the full and final settlement of the claim and thus disposing of the case with speed and finality;
15. Provide a system of official recognition of organizations and associations of private recruitment agencies, manning agencies and of OFWs for purposes of improving their capacity, and providing authority within their ranks for purposes of self regulation and promotion of mutual help and protection, and providing appropriate incentives therefor;
16. Such other purposes needed to comply with the mandate of the Department.

**Section 7. Structure of the Department** - There shall be a Secretary of the Department who shall be assisted by:

1. Undersecretary for Land-based Overseas Employment;
2. Undersecretary for Sea-based Overseas Employment;
3. Undersecretary for Overseas or Emigrant Filipinos, Migration, Welfare, Reintegration and Development;
4. Undersecretary for the Eradication of Illegal Recruitment, Trafficking and other Illegal Activities in Overseas Employment;
5. Undersecretary for Administration, Personnel and Finance; and
6. Service units, staff bureaus of as many offices, regional or in the local government units. as required for the efficient conduct of the Department's functions.

**Section 8. Qualifications of the Secretary, Undersecretaries and Assistant Secretaries** - The Secretary, Undersecretaries, and Assistant Secretaries shall be Filipino citizens of good moral character. At least two of the Undersecretaries, and the Assistant Secretaries shall be career Civil Service officers with at least 10 years of experience in the field of overseas employment.

The Secretary shall be appointed by the President subject to confirmation by the Commission on Appointments, while the Undersecretaries and Assistant Secretaries shall be appointed by the President upon the recommendation of the Secretary.

Each Undersecretary shall be assisted by a number of Assistant Secretaries as may be determined by the Secretary.

**Section 9. *The Powers and Functions of the Secretary*** – The Secretary shall have exclusive control and supervision, shall exercise jurisdiction over the entire Department, its Officers and staff, and shall have the following powers and functions:

1. Direct and oversee the entire operation of the Department for its efficient and effective accomplishment of its mandate and functions;
2. Inform, advise and recommend needed actions to the President;
3. Continuously review existing programs and policies to improve delivery of services to our overseas Filipinos;
4. Coordinate, collaborate, conduct consultations with other government agencies, the associations of recruitment and manning agencies, non-government organizations, unions of OFWs like the seafarers, and similar groups or organizations;
5. Perform such other functions as required of a head of a department and as may be assigned by the President.

**Section 10. *The Offices, Powers, and Functions of the Undersecretaries*** – The Undersecretaries and their Offices. -

1. ***The Undersecretary for Land-based Overseas Employment*** - shall be charged with ensuring that the mandate and the functions of the Department involving land-based overseas employment are zealously and effectively carried out, through the following offices which are hereby created in the Department, and in the necessary regional and local offices:
  - i. ***The Land-based Overseas Employment Regulatory Board*** – This tripartite board shall regulate the participation of private recruitment agencies (PRAs) in overseas employment and provide for a simplified set of rules and regulation as well as the procedure for their licensing, while securing the most equitable terms and conditions of employment consistent with the labor policy of the host country through country specific Standard Employment Contract providing for the minimum wage; safe, decent, humane and improved working conditions and environment, with special consideration to occupational safety and health, for all our workers, especially women, overseas; and by providing social and welfare services; PROVIDED, however, that it shall also ensure that the foreign employers and Foreign Recruitment Agencies are properly screened to ensure their respect for the rights and dignity of OFWs, and, PROVIDED FURTHER That it shall promulgate a system of deregulation of

private recruitment agencies (PRAs) and manning agencies who have established record of compliance to the rules and regulations of the Department and protection of the welfare and dignity of OCWs.

- ii. *The Overseas Employment Office* - This office shall ensure that Filipinos who are desiring to work abroad are properly trained for the position or skill they are applying for, providing them with free skills assessment, free training and/or upgrading of skill, in coordination with the Technical Education and Skills Development Administrator (TESDA), providing them also with means to proactively protect themselves, to maintain conscientious behavior, ensuring that they are aware that they should take responsibility for their actions in the host country; Provided, that it shall also adopt a program to prepare all OFWs to embark on an employment away from their families and their comfort zones, by such preparation as Pre- Employment Orientation Seminars; Provided, however, that this Office shall oversee the conduct of Pre-Departure Orientation Seminars by registered Non-government Organizations
2. *The Undersecretary for Overseas Sea-based Employment* - shall be charged with ensuring that the mandate and the functions of the Department involving sea-based overseas employment are zealously and effectively carried out, through the following offices which are hereby created in the Department, and in the necessary regional and local offices:
  - i. *The Sea-based Overseas Employment Regulatory Board* - This office shall regulate the participation of manning agencies in sea-based overseas employment and provide for the rules and regulation as well as the procedure for their licensing. Provided, however, that it shall promulgate a system of deregulation of manning agencies who have established record of compliance to the rules and regulations of the Department and protection of the welfare and dignity of OCWs.
  - ii. *Office of Maritime Affairs and Overseas Seafarers* - This Office shall take charge of other concerns involving maritime affairs and overseas seafarers which are not covered by other offices of the Department, including unionism, collective bargaining agreements and the regular tripartite review of the Standard Employment Contract of seafarers, among others.
3. *The Undersecretary for Overseas or Emigrant Filipinos, Migration, Reintegration, Welfare and Development* - shall be charged with ensuring

that the mandates and functions relative to this Department are zealously carried out, through the following offices which are hereby created in the Department with necessary regional and local offices:

- i. ***The Board for Overseas Workers Welfare Fund*** - This Office shall protect the welfare fund of OFW-members, ensuring that they are enjoyed by members and their families only, further providing for program for benefits like that for retirement if feasible, of any OFW member for whom payments or contributions are made for at least 120 months to the fund; Provided, further, that this Board shall formulate, design and implement a comprehensive scheme covering name hires, direct hires and rehires or *Balik Manggagawa* that shall, as much as practicable, be at least equal to the terms of the mandatory insurance coverage provided for in Section 37-A of Republic Act No. 8042, as amended by Republic Act No. 10022, whose premiums shall be paid for by the employer, or voluntarily by the worker at his or her option, and provided that the Board shall initiate efforts, through the Secretary to enter into bilateral agreements for insurance coverage ensuring that the insurance benefits shall be better or at least equal to that provided by the aforementioned law.
- ii. ***The Board for Special Assistance Revolving Fund*** for Overseas Filipinos Workers who are not members of the Overseas Workers Welfare Fund, including non-member irregular overseas workers, in the amount of One Billion Pesos (PHP 1,000,000,000.00). The fund shall be utilized in a manner as maybe determined by the Board for the following purposes:
  1. Emergency repatriation;
  2. Medical expenses, hospitalization and purchase of medicines for repatriated migrants with dreaded diseases;
  3. Immigration penalties for overstaying, indigent and ailing overseas Filipino workers as well as victims of human trafficking and illegal recruitment;
  4. Legal assistance for cases to be filed in the host country, including payment of blood money, when recommended by the Department in consultation with the Department of Foreign Affairs and Department of Justice;
  5. Humanitarian assistance to families left behind by the OFWs who are temporarily unable to work or earn, particularly in cases of *force majeure* as in times of calamity.
  6. Basic necessities of OFWs in OFW centers/shelters in our Embassy and/or for those who are under detention;

7. Scholarship for children of OFWs who are victims of illegal recruitment, human trafficking, and other crimes involving violations of human rights, as defined under Philippine laws, as well as political and economic upheavals in the host countries;
8. Maintenance and operational expenses including capital outlay for the establishment of One-Stop Migrant Processing and Assistance Center or **OFW Malasakit Center** in the central office of the Department, including all regions of the country.

The *OFW Malasakit Center* shall, in partnership with other government agencies and local government units and in all provinces and major cities, ensure prompt and efficient provision of services to OFWs and their families such as acquisition of government permits, validating overseas job offers, grievances and complaints desk and reintegration services, in coordination with the other offices of this Department. It shall be set up in all offices of the Department as well as in local government units for easy access.

iii. *Office of Overseas or Emigrant Filipinos* - This Office shall:

1. Promote and uphold the interests, rights and welfare of overseas Filipinos and strengthen their ties with the Philippines
2. Register and provide pre-departure orientation seminars to emigrants.
3. Promote the transfer of technology as well as material and financial contributions from overseas for development projects in underserved communities all over the Philippines.
4. Provide younger generations of Filipinos overseas with opportunities to learn Philippine history, language and culture.
5. Provide assistance to the President and the Congress of the Philippines in the formulation of policies and measures concerning or affecting Filipinos overseas;
6. Develop and implement programs to promote the interest and well-being of Filipinos overseas;
7. Serve as a forum for preserving and enhancing the social, economic and cultural ties of Filipinos overseas with the Philippines.
8. Coordinate and liaise on behalf of Filipinos overseas with appropriate government and private entities in business

transactions, investments and similar ventures in the Philippines;

9. Develop and implement programs that shall provide incentives and convenience for Filipinos Overseas to contribute their skills, knowledge and other resources when they return to our country; and
10. Design, formulate and implement a program whereby our overseas Filipinos can assist in the protection of our overseas Filipino workers on-site.

- iv. ***Institute for Migration and Development*** - This shall collect and assess information, conduct in-depth studies and estimates, organize local and international conferences and fora, call for papers on global migration and development trends, perspectives and prospects, publish peer-reviewed papers and undertake consultations with relevant stakeholders, in support of evidence-based policy making generating options for the protection of all OFWS, and migrants and the promotion of their rights and welfare in all aspects, including return-migration.

It shall formulate, in coordination with NGOs, POs, the academe and other concerned entities an Integrated National Framework on Migration and Development. The Framework shall embody, among others, components for administrative and service efficiency goals, professionalism of overseas contracts, diplomatic strategies, and development objectives for expert and skilled workers that can be utilized for nation building in the country.

The Framework shall be the official road map on which the implementation of the National Migration and Development Agenda shall be based.

4. ***The Undersecretary for the Eradication of Illegal Recruitment, Trafficking and other illegal activities in Overseas Employment*** - This office shall be charged with the eradication of illegal recruitment, trafficking, and other illegal activities in overseas employment, through the following offices which are hereby created in the Department with necessary regional and local offices including local government units:

- i. ***The Anti-Illegal Recruitment, Trafficking and Other Illegal Activities Office*** - This Office shall promulgate rules and regulation for the implementation of its programs. It shall coordinate with other appropriate entities which shall have representations in this Office.



Considering the sensitivity of the functions of this Office, the Office of the Solicitor General as the legal defender of the Government shall assist in the defense of the officers and personnel of this Bureau, when arising out of the performance of their functions.

This Office shall have four Divisions: (1) Legal Assistance Division, (2) Investigation and Surveillance Division, (3) Prosecution Division, and (4) Information and Education Division.

1. ***The Legal Assistance Division*** – This Office shall provide guidance and counseling to anyone who believes that he/she is a victim of any illegal activity, including violations of any of the rules of this Department involving overseas employment. It shall assist aggrieved parties in the preparation of affidavits or pleadings, buildup of cases for filing with the proper entity, among others.

Victims of illegal recruitment or trafficking in persons involving recruitment for overseas employment and related cases may report or file a complaint through this Division or its regional offices.

When the complainant/reporter alleges that illegal recruitment and/or trafficking in persons involving recruitment for overseas employment are going on, the matter shall be endorsed to the Investigation and Surveillance Division.

2. ***The Investigation and Surveillance Division*** – This Office shall conduct operations such as surveillance of persons and entities, and assistance during entrapment/arrest, or closure of establishment. The officers of this Division shall be clothed with police power in the performance of their duties and shall be in close coordination with the Philippine National Police and the National Bureau of Investigation.

Upon endorsement of a complaint or report by the Legal Assistance Division, this Division shall conduct preliminary examination of the complainants and the witnesses and/or conduct surveillance.

3. ***The Prosecution Division*** – This Office shall provide legal assistance to victims during preliminary investigation and

during trial in collaboration with the prosecutors of the Department of Justice.

The Secretary, or the duly authorized representatives or any aggrieved person, may initiate the appropriate criminal action against any illegal recruiter or trafficker. Where a complaint is filed and the same is proper for preliminary investigation, it shall endorse the corresponding complaint and supporting documents to the proper prosecution office.

4. *The Information and Education Division* - This Office shall be in charge of effective dissemination of information on overseas employment and vigorous campaign against illegal recruitment, trafficking in persons, and other illegal activities in overseas employment; it shall make readily available and/or issue list of licensed agencies with track record in conforming with the laws and regulations pertaining to the deployment of OFWs.
5. *The Undersecretary for Administration, Personnel and Finance* - This Office shall carry out the functions of its offices in the pursuance of the mandate of the Department. It shall also coordinate and cooperate with the Overseas Labor Offices Board in conducting a competitive examination to professionalize the Overseas Labor Service Corps.
6. *Offices Directly under the Secretary of Overseas Filipinos* - The following offices shall be directly under the supervision of the Secretary:
  - i. *The Overseas Employment Advisory Council* - shall be the arm of the Department in ensuring the participation of the stakeholders in policy and decision-making in relation to overseas employment. The Council shall absorb the duties and responsibilities of the Governing Board of the Philippine Overseas Employment Administration as provided for under relevant laws and rules and regulations. The Council shall be composed of the Secretary and one representative each from the following:
    1. Organizations representing land-based OFWs;
    2. Organizations representing sea-based OFWs;
    3. President of the self-regulating organization for recruitment agencies;
    4. President of the self-regulating organization for manning agencies;

5. Registered NGO

ii. *The Overseas Labor Office* – The Office shall:

1. Develop policies, plans, programs, projects, and operating standards relative to the overseas labor concerns;
2. Maintain the OFW Centers in countries where there is a large concentration of OFWs;
3. Maintain a library of information on countries of destinations of our OFWs, including their prevailing labor laws and their development, prevailing system of recourse to labor justice, culture and traditions, latest news and current information from Philippine Overseas Labor Offices (POLOs) and in the international arena such as in the International Labor Organization, and Association of the Southeast Asian Nations among others.
4. Monitor the country's observance and implementation of its obligations/commitments, courtesies and facilities required by international organizations;
5. Oversee, supervise, and monitor the operations and activities of all POLOs and Filipino Resource Centers in different parts of the world;
6. Provide advisory service to the Secretary on matters of overseas labor concerns
7. Perform such other functions as may be provided by law or assigned by the Secretary.

iii. *The Board for Overseas Labor Officers* – The board shall be composed of the Secretary, or his/her representative, a representative from the Civil Service Commission and the Head of the Administration of the Department of Foreign Affairs. In coordination with the Undersecretary for Administration, Personnel and Finance and the Civil Service Commission, this Board shall conduct examinations for Overseas Labor Service Corps based on the qualifications provided herein, and the preparation, conduct and grading of written, oral and such other examinations as may be required and provide for a program of compulsory pre-deployment cadetship for overseas labor officers, in cooperation with the Foreign Service Institute of the Department of Foreign Affairs

Any person is eligible for appointment into the Overseas Labor Service Corps provided that he/she has the following qualifications:

1. A citizen of the Philippines, who is not less than 26 years of age;
2. Holder of a bachelor's degree, preferably Bachelor of Laws/Juris Doctor, from a College or University of recognized standing;
3. Willing and physically able to accept assignments anywhere in the world;
4. Knowledgeable in the cultural, political, and economic realities of the Philippines; and
5. has passed the examinations for Overseas Labor Service Corp

Provided, that any person who, prior to enactment of this Act, is already performing the functions of Overseas Labor Officers, shall be considered admitted to the Overseas Labor Service Corps subject to such rules and regulations promulgated by the Board.

**Section 11. *The Anti-Illegal Recruitment/Anti Trafficking Fund.*** – The Department shall establish an anti-illegal recruitment/anti-trafficking fund to support activities and programs geared towards the elimination of illegal recruitment and trafficking in persons during investigation, support the victims thereof, and prosecution, and for other anti-illegal recruitment and anti-trafficking in persons programs. In furtherance of this objective, the Department may enter into partnerships with the private sector, local or international organizations, and other government agencies.

**Section 12. *The OWWA Fund*** –The OWWA Fund under the former Overseas Workers Welfare Administration shall be transferred to *The Board for Overseas Workers Welfare Fund*, which utilization remains under the OWWA law until amended, with the new mandate that it shall only be used for the welfare of members and their families.

**Section 13. *Self-Regulation of Private Recruitment Agencies and Manning Agencies*** – The Department shall require the membership to a self-regulating organization as a continuing qualification in the grant of license to PRAs and/or Manning Agencies. Provided, that the Department shall recognize only one self-regulating organization for all PRAs and only one for all Manning Agencies Provided, further, that the Department shall recognize and support the sanctions imposed by such self-regulating organizations. Provided, finally that the board of said self-regulating organizations must have at least 1/3 of its membership as independent directors as defined under relevant laws and their organizations are managed by full time professional managers.

The participation in the management of these self-regulating organizations by agency owners or managers shall be discouraged.

The Department shall promulgate the implementing rules and regulations for the accreditation of the self-regulating organizations mandated in this Section within sixty (30) days from effectivity of this Act. The self-regulating organizations must be organized, existing, and accredited within sixty (60) days from the promulgation of the rules and regulations for accreditation provided for in the next preceding sentence.

## **PART II**

### **CHAPTER I**

#### **THE OVERSEAS LABOR RELATIONS COMMISSION**

**Section 14. *Declaration of Policy*** – Pursuant to the Constitutional mandate, it is the policy of the State to give preference to voluntary modes of dispute resolution, and provide an adequate administrative machinery for the speedy, inexpensive, and expeditious settlement of labor or industrial disputes for Overseas Filipino Workers. In addition, it shall have original and exclusive jurisdiction over all cases involving employer-employee relations, documented/regular or undocumented/irregular workers, arising out of or by virtue of any law or contract involving Filipino workers for overseas employment.

**Section 15. *The Overseas Labor Relations Commission*** - There shall be created a quasi-judicial body called the *Overseas Labor Relations Commission*, which shall be attached to the Department for program and policy coordination. It shall be composed of a Chairman and eight members called Commissioners. It shall have Overseas Labor Arbiters in its Arbitration Branches. It is bound by the same provisions of the Labor Code on the National Labor Relations Commission, except those specifically provided herein.

It shall have three (3) Divisions, each composed of three (3) Commissioners. Each Division shall be headed by Presiding Commissioners who shall come from the public sector, with a Commissioner chosen only from among the nominees of the migrant workers and another Commissioner to be chosen only from the nominees of the self-regulating organizations of private recruitment and manning agencies.

Upon assumption into office, the Commissioners nominated by the migrant workers and self-regulating organizations of private recruitment and manning agencies. shall divest themselves of any affiliation with or interest in the federation or association to which they belong. The Commissioners shall not have conflict of interest to the declared policy of the State under this Act.

**Section 16. *Headquarters, Branches and Provincial Extension Units.*** The First Division of the Overseas Labor Relations Commission shall have its main office in the

National Capital Region, and the Second Division in Cebu City and the Third Division in Davao City. The Commission shall establish as many regional branches as necessary.

Initially, there shall be ten Overseas Labor Arbiters in the Arbitration Branch of the Commission in NCR and three in each Regional Arbitration Branches which has a recorded number of at least fifty (50) cases involving OFWs in a year, for the effective and efficient operation of the Commission.

**Section 17. *Appointment and Qualifications.*** The Commissioner and the Overseas Labor Arbiters shall have the same qualification as the Commissioners and Labor Arbiters of the National Labor Relations Commission, thus:

The Commissioners shall be members of the Philippine Bar and must have been engaged in the practice of law in the Philippines for at least fifteen (15) years, with at least five (5) years' experience or exposure in the field of overseas labor relations, and shall preferably be residents of the region where they shall hold office. The Overseas Labor Arbiters shall likewise be members of the Philippine Bar and must have been engaged in the practice of law in the Philippines for at least ten (10) years, with at least five (5) years experience or exposure in the field of overseas labor relations.

**Section 18. *Salaries, Benefits and Emoluments.*** The Presiding Commissioner and members of the Commission shall have the same rank, receive an annual salary equivalent to, and be entitled to the same allowances, retirement and benefits as those of the Associate Justices of the Court of Appeals. Overseas Labor Arbiters shall have the same rank, receive an annual salary equivalent to and be entitled to the same allowances, retirement and other benefits and privileges as those of the judges of the Regional Trial Courts.

**Section 19. *Jurisdiction of the Overseas Labor Arbiters and the Commission.***

1. The Overseas Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the submission of the case by the parties for decision and without extension, even in the absence of stenographic notes, the following cases involving Overseas Filipino Workers:
  - i. Claims involving Filipino workers for overseas deployment, arising out of:
    1. An employer-employee relationship;
    2. By virtue of any law; or
    3. By virtue of Contract

- ii. Claims for actual, moral, exemplary and other forms of damage arising from the above claims 1, 2, or 3.
  - iii. Recruitment violations of PRAs committed against and involving OFWs;
  - iv. Claims for actual, moral, exemplary and other forms of damage arising out of the acts of illegal recruitment, trafficking in person, and similar illegal acts against applicant OFWs, which may be filed separately from the criminal case before the regular courts and/or before the civil aspect of the criminal case may be filed.
  - v. To hear and decide petition for enforcement of foreign judgments involving OFWs.
2. The Commission shall have exclusive appellate jurisdiction over all cases decided by Overseas Labor Arbiters.

Any appeal bond shall remain in the custody of the Regional Arbitration Branch which resolved the case, for execution only upon the final resolution of a claim by the Commission, the Court of Appeals, or the Supreme Court, as the case may be.

3. Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Overseas Labor Arbiter by referring the same to the grievance machinery or voluntary arbitration as may be provided in said agreements. If no settlement between the parties is reached in the grievance machinery or voluntary arbitration, the case may be filed with the Overseas Labor Arbiter

**Section 20. Powers of the Commission.** The Overseas Labor Relations Commission shall have the same power and authority as the National Labor Relations Commission, specifically as follows:

- 1. To promulgate rules and regulations governing the hearing and disposition of cases involving overseas Filipino workers before it and its regional branches, as well as those pertaining to its internal functions and such rules and regulations as may be necessary to carry out the purposes of this Act;
- 2. To hold any person in contempt directly or indirectly and impose appropriate penalties therefor in accordance with law.

A person guilty of each act of misbehavior in the presence of or so near the Chairman or any member of the Commission or any Overseas Labor Arbiter as to obstruct or interrupt the proceedings before the same, including disrespect toward said officials, offensive personalities toward others, or refusal to be sworn, or to answer as a witness or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in direct contempt by said officials and punished by fine not exceeding five Thousand pesos (P5,000.00) or imprisonment not exceeding five (5) days, or both, if it be the Commission or a member thereof, or by a fine not exceeding one hundred pesos (P1,000.00) or imprisonment not exceeding one (1) day, or both, if it be an Overseas Labor Arbiter. The person adjudged in direct contempt by an Overseas Labor Arbiter may appeal to the Commission and the execution of the judgment shall be suspended pending the resolution of the appeal upon the filing by such person of a bond on condition that he will abide by and perform the judgment of the Commission should the appeal be decided against him. Judgment of the Commission on direct contempt is immediately executory and unappealable. Indirect contempt shall be dealt with by the Commission or the Overseas Labor Arbiter in the manner prescribed under Rule 71 of the Revised Rules of Court.

**Section 21. *Appearances and Fees.***

1. Non-lawyers shall not appear before the Commission or any Overseas Labor Arbiter, except:
  - i. If they represent themselves; or
  - ii. If they represent their organization or members thereof
2. No negotiation fees or similar charges of any kind arising from any case involving the settlement of any case overseas Filipino workers shall be imposed. Provided, however, that the attorney's fees and/or the total fees/compensation a lawyer or his/her representative may charge shall in no case be more than 10% of the total claim or award, whichever is lower. Provided, further, that such agreement must be approved by the Overseas Labor Arbiters. Any contract, agreement or arrangement of any sort providing for higher fees shall be null and void.

**Section 22. *Appeal.*** Decisions, awards, or orders of the Overseas Labor Arbiter are final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decisions, awards, or orders. Such appeal may be entertained only on any of the following grounds:



1. If there is prima facie evidence of abuse of discretion on the part of the Overseas Labor Arbiter;
2. If the decision, order or award was secured through fraud or coercion, including graft and corruption;
3. If made purely on questions of law; and
4. If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant. In case of a judgment involving a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the Commission in the amount equivalent to the monetary award in the judgment appealed from. To discourage frivolous or dilatory appeals, the Commission or the Overseas Labor Arbiter shall impose reasonable penalty, including fines or censures, upon the erring parties.

In all cases, the appellant shall furnish a copy of the memorandum of appeal to the other party who shall file an answer not later than ten (10) calendar days from receipt thereof. The Commission shall decide all cases within ninety (90) calendar days from receipt of the answer of the appellee. The decision of the Commission shall be final and executory after ten (10) calendar days from receipt thereof by the parties. Any law enforcement agency may be deputized by the Commission in the enforcement of decisions, awards or orders.

Decisions, awards, or orders of the Commission shall be appealable to the Court of Appeals in accordance with Sec. 9 (3) of Batas Pambansa Blg. 129, as amended.

### **Section 23. Execution of Decisions, Orders, or Awards.**

1. The Commission, any Overseas Labor Arbiter, or the Conciliation/mediation officer, may *motu proprio* or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory, requiring a sheriff or a duly deputized officer to execute or enforce final decisions, orders or awards of the Commission, the Overseas Labor Arbiter or the Conciliation/mediation officer. In any case, it shall be the duty of the responsible officer to separately furnish immediately the counsels of record and the parties with copies of said decisions, orders or awards. Failure to comply with the duty prescribed herein shall subject such responsible officer to appropriate administrative sanctions.
2. The Secretary, the Chairman of the Commission, and the Presiding Commissioners of the Overseas Labor Relations Commission may designate special sheriffs and take any measure under existing laws to

ensure compliance with their decisions, orders or awards and those of the Overseas Labor Arbiters and Conciliation/mediation officer including the imposition of administrative fines which shall not be less than Five Thousand Pesos (P5,000.00) nor more than Ten Thousand Pesos (P10,000.00).

3. No writ of execution shall issue unless for final and executory judgment, decision, resolution, or order, or while any appeal, or any other action and/or proceedings is pending questioning such judgment, decision, resolution, or order.

**Section 24. *Liability for Money Claims*** - The liability for money claims arising out of an employer-employee relationship or by virtue of any law or overseas employment contract, including claims for actual, moral, exemplary, and other forms of damages, shall be the sole responsibility and shall attach exclusively on the principal/employer who is responsible for acts and/or omissions giving rise to the cause of actions for such claims. For this purpose, each principal/employer shall procure and maintain an Employment Practices Liability Insurance, which is hereby included in the coverage of the compulsory OFW insurance provided for under R.A. 10022, shall be answerable for any claims and/or that may be awarded to the aggrieved OFW. Provided, however, that the PRAs and/or the manning agencies shall continue to be the agents of the foreign employer in prosecuting or defending the latter's interest before the courts, quasi-judicial tribunals, or similar agencies in the Philippines.

In case of any violation of the PRA and/or manning agency of any recruitment rules and regulations prevailing at the time of the OFW's deployment which directly resulted and/or contributed to the cause of action of the OFW against the employer, the liability of the foreign employer/principal and the private recruitment agency/manning agency shall be joint and solidary. Provided, however, that such liability is limited only to the employment provisions of the employment contract.

Such liabilities and/or obligations PRAs and/or manning agencies shall continue during the entire period or duration of the employment contract of the OFW and the foreign employer which was entered into with the participation of the deploying PRA or manning agency. It shall not be affected by any substitution, amendment, or modification made locally or in the foreign country of work; Provided, that the liability and/or obligation which starts at the deployment of the worker and shall cease upon the completion of the term of the contract and return in the Philippines, or when the OFW opts to remain in and/or return to the country of work as when the OFW, without the participation of the deploying recruitment/manning agency, voluntarily renews or extends his contract with his foreign principal/employer.

**Section 25. *Disqualification of Foreign Employer/Principal from the Philippine Overseas Employment Program*** - In case of a final and executory judgment against a

foreign employer/principal as represented by their partner Philippine recruitment/manning agency in the latter's joint and several liability, the foreign employer/principal shall be disqualified, without further proceedings, from participating in the Philippine Overseas Employment Program and from recruiting and hiring Filipino workers, unless or until it actually and fully satisfies the judgment award or reimburses the recruitment/manning agency the amount the latter paid for the judgment award as certified by the concerned Philippine Recruitment Agency.

**Section 26. *Pending Cases to be remanded to the OLRC*** - The records of all cases falling under the jurisdiction of the OLRC as provided herein shall be transferred to it within sixty (60) days from the effectivity of this law. Victims of Illegal Recruitment or Trafficking may at their option seek the transfer of their money/civil claims from the regular courts, through proper procedures, to the OLRC.

## **CHAPTER II**

### **THE CONCILIATION AND MEDIATION OFFICE**

**Section 27. *The Conciliation and Mediation Office*** - It is hereby created the Office of the Conciliation and Mediation called Con-Med Office for overseas labor issues or disputes. It shall be headed by a Director, assisted by two Deputy Directors. It shall provide speedy, impartial, inexpensive and accessible settlement of overseas labor issues in all offices of the Department, regional, attached or abroad in the Philippine Overseas Labor Offices. Parties to an overseas labor dispute shall undergo a thirty (30) day conciliation and mediation under this Office before the issue can be filed as a case with the proper authority;

**Section 28. *Conciliation-Mediation*** - In all cases falling within the jurisdiction of the OLRC, shall be subject to mandatory conciliation-mediation which shall cover all causes of action the complainant/s may have against the respondent/s. The OLA shall entertain only endorsed or referred cases which has already undergone mandatory conciliation-mediation. Provided, that the parties any or both parties involved in the dispute may pre-terminate the conciliation-mediation proceedings and request referral or endorsement of the case to the OLA, or if both parties so agree, refer the unresolved issued to voluntary arbitration. Provided finally, that any full settlement reached through mandatory conciliation-mediation shall be final and immediately executory and shall have the effect of res judicata and shall dispose of the case with finality.

The conciliation and mediation office shall develop a corps of voluntary arbitrators, provide a training program and qualifications systems therefor, and maintain a registry of voluntary arbitrators, which shall be available to any party or parties desiring to avail themselves of the system of voluntary arbitration.

**Section 29. *Scope and Coverage of the Mandated Conciliation and Mediation*** – This Office shall conciliate and mediate overseas labor issues involving:

1. Causes of action arising from employment contract or employer-employee relationship between the employer and the OFW, or law;
2. Violations of the rules on recruitment, placement of migrant workers, and manning;
3. Disciplinary actions against migrant workers which may cause disqualification from overseas employment and such other penalty as may be provided for by law or rules and regulations;
4. Complaints initiated by the Department;
5. Complaints against recruitment or manning agencies;
6. Complaints against the foreign employer;
7. Issues on occupational safety and health standards which may endanger the migrant worker; dangerous occurrences or disabling injury, and/or absence of adequate personal protective equipment; and
8. Any other similar overseas labor disputes and/or issues

**Section 30. *Procedure in conciliation and mediation in the Philippines*** – The Con-Med Office shall propose its rules of procedures for the attainment of its purpose, including the proper training of its conciliators and mediators, and monitoring, which rules shall be approved by the Secretary. It shall designate a Con-Med Officer in each of its offices, who shall sign Orders of referral to the proper authority or Settlement Agreements. The Settlement Agreements shall have the effect of a decision as to the issues settled, which shall become final and executory after ten (10) days from receipt of the parties.

**Section 31. *Conciliation and Mediation in the Host Country*** - The Labor Attaché in the country of work shall be the Con-Med Officer, unless another officer has to be so designated for valid or necessary reasons. The Labor Attaché/Con-Med Officer or any of the designated Con-Med Officer in the country of work shall approve the Settlement Agreement only after the monetary consideration is paid to and received by the concerned party, if the complained party is the foreign employer.

**Section 32. *Confidentiality of Information Given During Conciliation/Mediation*** - information given or statements declared during conciliation/mediation shall be treated as privileged communication and shall not be used as evidence in any proceedings, except when there is an expressed or formal waiver of the confidentiality.

Any recording device such as camera, voice or video recorder shall be prohibited during the proceedings. In case of violation, the recording device shall be confiscated, without prejudice to recourse to any appropriate legal action against the violator.

**Section 33. *Referral of Matter to Conciliation/Mediation Jurisdictional*** – all cases involving OFWs must be referred for conciliation/mediation first in the host country, and, should conciliation/mediation fail in the host country, another round in the Philippines. Referral to conciliation/mediation is a condition precedent in filing a case before the OLRC. Failure to undergo conciliation/mediation shall be a ground for dismissal of the case filed before the OLRC.

## **PART IV**

### **TRANSITORY PROVISIONS**

**Section 34. *Transfer of all pending cases involving OFWs*** – Within three months from the effectivity of Act, all records of cases involving OFWs shall be transferred by the National Labor Relations Commissions and its Arbitration Branches to the OLRC for final disposition.

Within the same period, all issues for conciliation/mediation involving OFWs with the National Conciliation Mediation Board of the Department of Labor and Employment shall be transferred to the Conciliation and Mediation Board of this Department.

**Section 35. *Transfer of Agencies, Personnel and Funds*** – All offices on overseas Filipinos, their powers and functions, as well as their applicable funds and appropriations, records, equipment, property, and necessary personnel, shall be transferred and absorbed by the Department in accordance with the rightsizing program and policy of the government. These offices shall include, but not limited to, the following:

1. The Department of Labor and Employment offices on Overseas Filipinos;
2. The Overseas Workers Welfare Administration (OWWA), with the National Reintegration Center for OFWs
3. The International Labor Affairs Bureau (ILAB), with the Philippine Overseas Labor Offices (POLO)
4. National Maritime Polytechnic (NMP)
5. Social Service Offices for Overseas Filipinos under the Department of Social Welfare and Development (DSWD)
6. The Commission on Overseas Filipinos (CFO)
7. The functions of MARINA involving employer-employee relation, training, or the enhancement of the welfare and the protection of the rights of overseas seafarers
8. The legal assistance function of the UnderSecretary for Migrant Workers Affairs of the Department of Foreign Affairs

All offices, services, divisions, units, functions, mandates, and personnel not covered by this Act shall remain under the Department of Labor and Employment.

Considering the highest level of representation abroad of the Department of Foreign Affairs, the remaining functions of the Office of the Undersecretary for Migrant Workers Affairs and the Assistance to Nationals shall remain with the DFA.

Additional funding necessary for the functions of the Department shall initially come from the Office of the President and thereafter, shall be included in the General Appropriations Act.

**Section 36. *Effect of Reorganization to Officials and employees in the absorbed offices*** - As much as practical, officials and employees of the transferred or absorbed offices shall maintain their position or equivalent item in the Department

Employees who shall lose their position by the creation of this Department shall be governed by Republic Act No 6656 or An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization.

## **PART V**

### **MISCELLANEOUS PROVISIONS**

**Section 37. *Labor Organizations*** - Pursuant to the declared policy of the State to promote free trade unionism and free and voluntary organizations, labor organizations and trade unions of migrant workers shall be encouraged and recognized as legitimate and entitled to all the rights and privileges in accordance with the laws and regulations on labor organizations, after they have complied with the requirements of registration in compliance with such rules and regulations, and requirements as may be provided for by the Department. Provided, however, that in the country of work where organizing of unions or labor organizations are prohibited or not allowed by the local laws, migrant workers are hereby prohibited from forming or helping such organization or union. This is similar to the prohibition the Philippines impose on foreign workers in the Philippines, with the only exceptions to those whose country grants the same or similar rights to Filipinos working in their country.

**Section 38. *Promulgation of Rules and Regulations by Specific Offices*** - Within ninety (90) days from the effectivity of this Act, the following Offices shall promulgate their respective Rules of Procedures and Regulations in coordination with the concerned government agencies, stakeholders, and as the Secretary may identify:

1. The **Land-based Overseas Employment Regulatory Board** of the **Undersecretary for Land-Based Employment;**

2. The **Sea-Based Overseas Employment Regulatory Board** of the **Undersecretary for Sea-Based Employment**;
3. The **Overseas Labor Offices Office** as to the conduct of examinations for the Overseas Labor Attachés and Assistant Overseas Labor Attachés;
4. The **Investigation and Surveillance Division** of the **Office of the Anti-Illegal Recruitment, Trafficking and other illegal activities Bureau**;
5. The **Office of the Conciliation and Mediation**.

The relevant provisions of the Rules of Procedure promulgated by the National Labor Relations Commission shall apply to the Overseas Labor Relations Division/Commission, which, however, shall have additional Special Rules of Procedures on claims involving Overseas Filipino Workers.

**Section 39. *Implementing Rules and Regulations*** - The implementing rules and regulations of this act shall be promulgated within ninety (90) days by The Secretaries of the Department of Foreign Affairs, the Department of Justice, the Civil Service Commission, the Department of Budget and Management, the Department of Labor and Employment, the Philippine Overseas Employment Agency, the Commission on Overseas Filipinos, the Department of Social Welfare and Development, The Insurance Commission, the TESDA, the Presidential Adviser for Overseas Employment, and the Administrator of MARINA.

**Section 40. *Separability Clause*** - In any clause, sentence, paragraph, or any part of this Act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operations to the clause, sentence, paragraph or part thereof directly involved in the controversy.

**Section 41. *Repealing Clause*** - All laws, orders, issuances, decrees, rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**Section 42. *Effectivity Clause*** - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,