

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

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SENATE

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S.B. NO. 407

Introduced by SENATOR IMEE R. MARCOS

**AN ACT CREATING
THE NATIONAL OVERSEAS EMPLOYMENT AUTHORITY,
AMENDING FOR THIS PURPOSE PRESIDENTIAL DECREE 797 AND
REPUBLIC ACT 8042 AND OTHER LAWS**

EXPLANATORY NOTE

The United Nations, the International Organization for Migration, and other States have regularly recognized the Philippines as a model of migration governance, especially in terms of protection to rights and welfare of migrants and their families, and assistance to Overseas Filipinos in distress. Despite this international acclaim, the significant expansion of deployments of overseas Filipino workers has posed significant challenges for government to effectively, efficiently and economically deliver government services to them and their families.

In this regard, this Act aims to reorganize, streamline and upgrade existing government agencies on overseas employment, welfare and assistance in order to promote collaborative governance with all stakeholders, a data-driven approach, and enhanced coordination and elimination of government silos at the ground-level.

Patterned after the NEDA model, there shall be a National Overseas Employment Authority (NOEA) composed of a governing board and a secretariat. The establishment of the NOEA Board composed of the President and relevant members of the Cabinet would ensure a multi-disciplinary and wholistic approach necessary to fully address the whole spectrum of issues arising from the migration cycle. Policy discussions, decisions, and directions would be elevated and expanded to key government executives for a

"whole-of-government" approach to eliminate silos, facilitate coordination, and unify team goals and objectives.

The Philippine Overseas Employment Administration (POEA) shall be reorganized and upgraded to form the main core of the NOEA Secretariat, which shall be headed by a Director-General with rank of Secretary. It will be recorded that the POEA originated from the consolidation of the Overseas Employment Development Board, the National Seamen Board, and Bureau of Employment Services (the overseas employment functions). Together with OWWA and the welfare fund, it is the primary and largest agency of the government, having both the institutional memory and expertise on overseas employment regulation.

Instead of entailing the large costs, redundancies and profound service disruptions usually required in creating a fullblown, new department in an ever-expanding bureaucracy, the prudent course would be to upgrade the POEA to department level and merge other related agencies such as the DFA's Commision on Filipinos Overseas into the NOEA Secretariat. This would ensure that institutional service specializations and proficiencies are preserved. And there will be only minimal disruptions to government service and a limited number of new positions required to be created.

Most importantly, the establishment of Philippine Overseas Assistance Centers (POAC) abroad with professional officers and staff and sufficient resources will provide effective legal and other assistance to overseas Filipinos in distress. Further, the creation of an Overseas Employment Stakeholders Advisory Council can promote collaborative governance with participants in the migration cycle, and other stakeholders.

The key features of this Act include, the professionalization of government personnel based locally or abroad that will ensure that overseas Filipinos, their families, and other stakeholders have the necessary experts to serve and assist them. Also, the establishment of an Overseas Welfare Assistance Fund will be used to assist Filipinos in distress overseas. Further, the affirmation of the One-Country Team Approach and promotion of co-location of government personnel abroad will enhance coordination, consistency and teamwork. Lastly, this Act provides a system of adjudication and arbitration that allows Filipino migrant workers to file complaints at the nearest POAC

abroad and obtain a binding judgment or award that can be enforced in the host country or in the Philippines.

The NOEA can be established in a manner that does not abolish, negatively affect, or greatly disrupt the existing functions, services, programs and activities of the DOLE and DFA on overseas employment, welfare and assistance. Such objectives are desirable to preserve the long-standing institutional knowledge, skills and expertise of the DFA and DOLE for the benefit of the public.



IMEE R. MARCOS

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AN ACT CREATING
THE NATIONAL OVERSEAS EMPLOYMENT AUTHORITY, AMENDING
FOR THIS PURPOSE PRESIDENTIAL DECREE 797 AND REPUBLIC ACT 8042
AND OTHER LAWS

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

1 **WHEREAS**, Article XIII, Section 3 of the Constitution provides that the State
2 shall afford full protection to labor, local and overseas, organized and unorganized, and
3 promote full employment and equality of employment opportunities for all. And the
4 State recognizes the contribution of overseas Filipino workers to the national economy.

5
6 **WHEREAS**, it is hereby the policy of the State to promote collaborative
7 governance, and to streamline the bureaucracy to ensure economy, efficiency and
8 effectiveness in the delivery of public services, including to Filipinos overseas.

9
10 **WHEREAS**, it is prudent to clarify, coordinate, and consolidate all relevant
11 government services on overseas employment and welfare under the Executive
12 Department to further enhance protection and assistance to overseas Filipino workers
13 and their dependents.

14 Now, therefore,

15
16 **Section 1. Short Title.** This Act shall also be known as the "National Overseas
17 Employment Authority Act of 2019".

18
19 **Section 2. Establishment.** There is hereby established a National Overseas

1 Employment Authority (NOEA). The NOEA consists of a Board and a Secretariat.

2

3 **Section 3. Mandate and Mission.** The NOEA shall be responsible for
4 regulating overseas employment, and assisting overseas Filipino workers and their
5 dependents in distress. Its mission is to ensure employment opportunities overseas with
6 full protection to labor, human rights and welfare for Filipinos.

7

8 **Section 4. Composition of the NOEA Board.** The NOEA Board shall be
9 composed of:

- 10
- 11 (1) The President as Chairperson
12 (2) The Secretary of Labor and Employment as Vice Chairperson
13 (3) The Director-General of the NOEA Secretariat
14 (4) The Secretary of Foreign Affairs
15 (5) The Secretary of Social Welfare and Development
16 (6) The Secretary of Health
17 (7) The Secretary of Justice

18

19 The NOEA Board may invite other Cabinet Secretaries to join its meetings or
20 other activities.

21

22 The NOEA Board shall formulate its own internal rules, procedures and practices
23 for the conduct of its activities.

24

25 **Section 5. Functions of the NOEA Board.** The NOEA Board shall consolidate,
26 control, coordinate, supervise, guide and review implementation of all laws, policies,
27 plans and programs on the employment and welfare of Filipinos overseas.

28

29 **Section 6. Director-General of the NOEA Secretariat.** The NOEA
30 Secretariat shall be headed by a Director-General. The Director-General shall have the
31 rank and title of Secretary of Overseas Employment and Welfare. He/she shall be
32 appointed by the President, subject to confirmation by the Commission on
33 Appointments.

34

35 **Section 7. Overseas Employment Stakeholders Advisory Council.** There

1 is hereby established an Overseas Employment Stakeholders Advisory Council that shall
2 perform the following functions:

- 3
- 4 a. diagnose, analyze and articulate to NOEA the issues affecting Filipinos overseas
5 and different stakeholders on overseas employment
- 6 b. collaborate with NOEA to identify the needs and the strengths and weaknesses
7 of existing policies, laws, regulations, programs, activities, services and support
8 systems
- 9 c. collaborate with NOEA to formulate pragmatic and inclusive strategies, and
10 solutions

11

12 The Council shall be composed of the NOEA Board members or their respective
13 designated representatives, and 15 civil society and private sector representatives,
14 including from land-based overseas Filipino workers, seafarers, women migrants,
15 employers, recruiters, ship manning agents, and other relevant stakeholders. The NOEA
16 Board shall appoint the civil society and private sector representatives based on a
17 selection criteria that ensures proper representation of stakeholders, following a public
18 advertisement process seeking applications. Such appointments shall be for a fixed-
19 term of 2 years without further extension, renewal or reappointment to another term in
20 order to afford opportunity to other qualified individuals to serve in the Council.

21

22 The Council shall meet at least once every 3 months, and submit annual reports
23 to the President and Congress.

24

25 The NOEA Board shall fix and grant compensation, benefits and reimbursements
26 for Council members in line with existing civil service, accounting and auditing laws,
27 rules and regulations. The NOEA Board shall also formulate internal rules, procedures
28 and practices for the conduct of the activities of the Council.

29

30 **Section 8. Deputy Directors-General.** — The Director-General shall nominate
31 for the Board's approval the appointment the following officers to assist him:

- 32 (1) Deputy Director-General for Land Based Overseas Employment;
- 33 (2) Deputy Director-General for Sea Based Employment;
- 34 (3) Deputy Director-General for Recruitment, Licensing and Regulatory
35 Enforcement;

- (4) Deputy Director-General for Assistance to Migrants in Distress;
 - (5) Deputy Director-General for Management, Planning, and Reintegration Services; and
 - (6) Deputy Director-General for Legal (General Counsel);

Deputy Director-Generals shall have the rank and title of Undersecretary.

Section 9. Qualifications of the Director-General and Deputy Directors-

General. The Director-General and Deputy Directors-General must be natural-born citizens of the Philippines. Also, the Director-General for Recruitment, Licensing and Regulatory Enforcement, the Deputy Director-General for Assistance to Migrants in Distress, and the Deputy Director-General for Legal must be members of the Philippine Bar in good standing with at least 5 years of relevant experience.

Section 10. Functions of the NOEA Secretariat. In general, the NOEA Secretariat shall provide technical and administrative support to the NOEA Board. And it shall serve as the NOEA Board's primary policy-recommending, coordinating and implementing agency to perform the NOEA's mandate and accomplish its mission.

The Director-General shall have direction, authority, and control over the NOEA Secretariat. And all powers and functions of all officers, employees, and organizational units of the NOEA Secretariat are vested in the Director-General.

In particular, the Director-General, acting directly or through his Deputy Directors-General, shall exercise the following powers and functions:

- (1) Simplify and expedite the deployment process, from the procurement of official documents and the verification of employment contracts;
 - (2) Protect and promote the interest of every Filipino desiring to work overseas by securing for him the most equitable terms and conditions of employment, and by providing social and welfare services, including legal assistance for problems of overseas Filipino workers and their dependents arising from employer-employee relationship;
 - (3) Undertake and coordinate all labor, employment and welfare service activities for overseas Filipino workers, including liaison with the relevant agencies and

- 1 entities in the host countries;
- 2 (4) Enforce all social and labor legislation on overseas employment and welfare;
- 3 (5) Formulate and recommend legislation, policies, plans and programs on
- 4 overseas employment and welfare;
- 5 (6) Regulate the recruitment and placement of Filipino workers overseas,
- 6 whether land based or onboard ships, to ensure that the rights and welfare of
- 7 Filipino workers are protected in line with existing laws;
- 8 (7) Prescribe standard employment contracts with minimum terms and conditions
- 9 of employment for recruitment and placement of Filipino workers overseas in
- 10 line with international and Philippine labor standards;
- 11 (8) Issue or reject applications for license or authority under the Labor Code of
- 12 the Philippines (Presidential Decree No. 442, as amended) for recruitment
- 13 and placement of Filipino workers overseas;
- 14 (9) Conduct on-site labor inspections and human rights audit of foreign-based
- 15 employers to ensure compliance with labor standards and protection to the
- 16 rights of overseas Filipino workers. And issue or cancel corresponding labor
- 17 standards and human rights compliance certificates for foreign-based
- 18 employers;
- 19 (10) Deputize any government prosecutor or law enforcement officer, and
- 20 maintain, control and supervise an inter-agency law enforcement and
- 21 prosecution task force against illegal recruitment and trafficking in persons for
- 22 labor exploitation to pursue conviction of offenders and compensation to
- 23 victims;
- 24 (11) Receive, investigate, hear, and decide sworn complaints of overseas Filipino
- 25 workers or their dependents arising from employer-employee relationship,
- 26 including for claims for money and benefits, or for violation of labor standards
- 27 or employment contracts, against persons or entities engaged in recruitment
- 28 and placement of Filipino workers overseas, whether or not such persons or
- 29 entities are holders of a license or authority, or against foreign-based
- 30 employers or sponsors and their agents or other persons who may be
- 31 solidarily liable;
- 32 (12) Preventively suspend for a maximum period of 30 days an existing license or
- 33 authority for recruitment and placement of Filipino workers overseas pending
- 34 investigation of an alleged violation of law or rules and regulations on
- 35 overseas employment;

- (13) Revoke a license or authority for recruitment and placement of Filipino workers overseas after determining by substantial evidence, upon due notice and hearing, a violation of law or rules and regulations on overseas employment and welfare;
 - (14) Compel the attendance of witnesses, submission of documents, or inspection of objects or places in any investigation, case or other legal proceedings before the NOEA or its organizational units, and impose penalties for contempt, either direct and indirect, in line with the Rules of Court, and subject to the provisions of existing laws;
 - (15) Conduct public information campaigns, orientations, seminars and trainings on overseas employment and welfare, with emphasis on educating Filipinos desiring to work overseas about labor standards, human rights, and the laws, practice, and customs of host countries;
 - (16) Issue, enforce, and review rules and regulations to implement this Act and all other laws on overseas employment and welfare, and perform the NOEA's mandate and accomplish its mission;
 - (17) Make contracts, grants, and cooperative agreements with other government agencies, or engage the services of private service providers, as may be necessary and proper to carry out the Director-General's responsibilities under this Act, or as otherwise provided by law;
 - (18) Maintain and make readily accessible to the public an updated and complete information system and database on accredited and blacklisted foreign-based employers, sponsors, recruiters, manning agents, and other persons related to the recruitment, placement, and employment of overseas Filipino workers;
 - (19) Maintain and make available to other government agencies, with due regard to the right to privacy, an information system and database on overseas Filipino workers and their dependents, and a registry of overseas employment contracts for purposes of facilitating delivery of government assistance to those in distress or resolving labor related disputes;
 - (20) Conduct trainings, sponsor scholarships, and undertake other capacity building measures on labor laws, human rights, gender sensitivity, social work and customer service, and other useful topics to ensure that government officials and personnel have adequate skills, knowledge and experience to adequately protect the rights and welfare of overseas Filipino workers and their dependents;

(21) Perform such other functions as may be provided by law, or assigned by the NOEA Board.

Section 11. Authority to delegate functions. Except as otherwise provided in this Act, the Director-General may delegate any of his/her functions to any officer, employee, or organizational unit of the NOEA Secretariat.

Section 12. Organization of the NOEA Secretariat. The NOEA Secretariat have the following organizational units and structure:

(1) Office of the Deputy Director-General for Land-based Overseas Employment

- a. Directorate for Migrant Workers Registration and Employment Contracts Review
- b. Directorate for Migrant Workers Capacity Building
- c. Directorate for Promotion of Labor Standards and Human Rights, and Overseas Labor Marketing
- d. Directorate for Government to Government OFW Placements
- e. Directorate for Stakeholders Engagement and Retrospective Review of Regulations

(2) Office of the Deputy Director-General for Sea-based Employment

- a. Directorate for Seafarers Registration and Contracts Review
- b. Directorate for Seafarers Capacity Building
- c. Directorate for Seafarers Labor Standards and Human Rights
- d. Directorate for Seafarers Employment Marketing
- e. Directorate for Stakeholders Engagement and Retrospective Review of Regulations

(3) Office of the Deputy Director-General for Recruitment, Licensing and Regulatory Enforcement

- a. Directorate for Licensing, Authorization and Accreditation
- b. Directorate for Labor Standards Inspections and Human Rights Audit
- c. Directorate for Complaints, Investigations, and Labor Assistance
- d. Directorate for Anti-illegal recruitment and Anti-Labor Trafficking Prevention, Law Enforcement, Prosecution and Victim Compensation

1 e. Directorate for Regulatory Adjudication

2

3 (4) Office of the Deputy Director-General for Assistance to Migrants in Distress

4 a. Philippine Overseas Workers Assistance Centers

5 b. Coordinating Center for Assistance to Filipino Seafarers in Distress

6

7 (5) Office of the Deputy Director-General for Management, Planning, and
8 Reintegration Services

9 a. Directorate for Data Collection, Quality Assurance, and Integration

10 b. Directorate for Planning, Data Analysis, and Research (Institute of
11 Migration Policy Studies)

12 c. Directorate for Migrant Reintegration Services

13 d. Directorate for IT and Database Infrastructure

14 e. Directorate for Fiscal Services

15 f. Directorate for Human Resource Management, Capacity Building and
16 Personnel Benefits

17 g. Directorate for Procurement and Assets Management

18

19 (6) Office of the Deputy Director-General for Legal (General Counsel)

20 a. Directorate for Legal Advice on Policies, Legislations, Regulations,
21 Programs and Activities

22 b. Directorate for Ethics and Personnel Issues

23 c. Directorate for Transactions Review, and Litigation

24

25 **Section 13. Assistant Directors-General.** The Director-General shall appoint

26 Assistant Directors-General from members of the Career Executive Service, the
27 Philippine bar or Foreign Service Officers to head the Directorates in the NOEA
28 Secretariat under the control and supervision of the Deputy Directors-General in their
29 respective offices. Assistant Directors-General shall have the rank and title of Assistant
30 Secretary.

31

32 **Section 14. Philippine Overseas Assistance Centers.** There shall be

33 Philippine Overseas Assistance Centers (POAC) abroad, including both the consulate
34 and the Philippine Overseas Labor Office (POLO) which shall have the following powers,
35 functions, and duties:

- (1) Provide legal assistance to overseas Filipinos and their dependents in distress;
- (2) Repatriate to the Philippines Filipinos and their dependents in distress overseas;
- (3) Provide temporary shelter, basic necessities and other forms of welfare assistance to overseas Filipinos and their dependents in distress while awaiting repatriation or resolution of their problems;
- (4) Repatriate remains of Filipinos, and their remaining properties abroad, including insurance proceeds, death or other benefits, to their heirs in the Philippines;
- (5) Monitor implementation of all overseas employment contracts, conduct on-site labor inspections and human rights audit of employers in the host country or area covered to ensure compliance with labor standards and protection to the rights of overseas Filipino workers; And to issue or cancel corresponding labor standards and human rights compliance certificates for employers in the host country or area covered;
- (6) Provisions of existing laws notwithstanding, to hear, try and decide cases, or arbitrate all matters involving employer-employee relations and contracts, including money claims arising out of or by virtue of any law or contracts involving overseas Filipino workers in the areas covered including disability or death claims arising from or in connection with employment; The decisions or arbitral award of the Migration Counsellor shall be final and executory;
- (7) Initiate the necessary legal proceedings in the host country for recognition and enforcement of labor-related judgments or arbitral awards in behalf of the claimant overseas Filipino workers or their dependents;
- (8) Maintain and make available to the NOEA Board and other relevant Philippine government agencies an updated registry and electronic database of all overseas Filipino workers, their employers, sponsors, and recruiters in the area of coverage, including all corresponding contracts entered into between these parties;
- (9) Submit to the NOEA Board and make available to other relevant Philippine government agencies regular and updated quarterly reports and policy recommendations on the labor laws, regulations and practices in the host country, the situation and problems faced by overseas Filipino workers, and the activities of the POAC;

- (10) Organize cultural, educational, and information activities and events for overseas Filipino workers, with emphasis on promoting their labor and human rights and rekindling their cultural heritage; and to represent the Philippine government at lawful gatherings, cultural activities, and events of overseas Filipino worker communities;
 - (11) Engage the services of lawyers, interpreters/translators, doctors and other highly skilled professionals duly licensed in the host country, and enter into contracts with the private service providers as necessary, or incidental to accomplish his functions; And to hire local employees who are citizens of the host country as technical or administrative support staff;
 - (12) Upon notice and hearing, suspend or revoke authorities, licenses or accreditation for recruitment, placement, deployment and employment of overseas Filipino workers for persons, agencies or companies in the host country that violate existing laws, rules and regulations on overseas employment and welfare, or contractual obligations with any overseas Filipino worker; and
 - (13) Issue rules and regulations applicable within their respective area of jurisdictions for the implementation of this Act and other related Philippine laws.

There is hereby established a Philippine Overseas Assistance Centers (POAC) in each of the 26 countries or areas abroad where there are currently Philippine Overseas Labor Offices. After 3 years from the effectivity of this Act, the NOEA Board may establish, close, or relocate POACs in various countries or areas abroad to promote economy, efficiency, and effectiveness in government service, and maintain responsiveness to the needs of overseas Filipinos. The NOEA Board shall periodically review the status of POACs, the concentration of Filipinos abroad, and the existence of safeguards to human rights, labor standards, safety and welfare of Filipinos in countries or areas abroad to determine the necessity for POACs.

All POACs shall be attached and housed at the Philippine Embassy or Consulate-General premises in the host country or area to facilitate close coordination and promote the One-Country Team approach.

Section 15. Shelters for Migrants in Distress. Every POAC shall maintain

1 separate shelters for women and children, and for men. Provided, that special
2 arrangements shall be made to ensure, as far as practicable, that families remain
3 together.

4

5 The shelters shall be housed outside the premises of the Philippine Embassy or
6 Consulate-General unless prohibited by the host country. Provided, that special
7 arrangements shall be made to accommodate Filipinos in distress who need to be
8 housed at the Philippine Embassy or Consulate-General for their urgent protection.

9

10 **Section 16. Migration Counsellors.** The NOEA Director-General shall appoint
11 a pool of Migration Counsellors (Senior Officials) who shall serve in his office with the
12 designation of Senior Special Assistants. Upon the Director-General's recommendation,
13 the NOEA Board may assign a Migration Counsellor to head each POAC at Philippine
14 Embassies and Consulate-Generals abroad. As Head of the POAC, the Migration
15 Counsellor shall undertake and coordinate all labor, employment, welfare, and
16 assistance service activities in the host country or areas covered including liaison with
17 the relevant agencies and entities in the host country to protect the rights and interests
18 and promote the welfare of overseas Filipinos. The Migration Counsellor shall also
19 control and supervise all personnel under the POAC that he/she is heading.

20 The NOEA Director-General shall also assign a Legal Officer and Deputy Head of
21 the POAC from the pool of Migration Counsellors.

22 A person cannot be assigned or designated as head, deputy head or officer-in-
23 charge of the POAC, even in an acting or temporary capacity, unless he/she has the
24 qualifications of a Migration Counsellor.

25

26 **Section 17. Qualifications of a Migration Counsellor.** A Migration
27 Counsellor must be a natural born citizen, physically fit and able to travel and serve
28 anywhere in the world, and has proven expertise in labor laws, human rights and
29 international labor standards. He/she must also be a member of the Philippine bar, and
30 passed either the Career Executive Service Examinations or the Foreign Service Officers
31 Examinations, and has at least 5 years relevant experience in overseas employment
32 regulation, assistance to overseas Filipino, or litigation and arbitration.

33

34 **Section 18. Tour of Duty.** A Migration Counsellor shall serve for a maximum of
35 6 years at any POAC abroad, after which he/she shall return to the home office, and

1 serve under the office of the Director-General for at least 3 years before being eligible
2 for redeployment to another POAC.

3

4 **Section 19. Diplomatic Rank.** A Migration Counsellor when assigned abroad
5 as Head of the POAC shall have the assimilated rank of Career Minister in the foreign
6 service for purposes of protocol. Provided, that a Migration Counsellor shall not serve as
7 acting principal officer of any consulate, consulate general or embassy, or precede in
8 rank any Foreign Service Officer performing such functions irrespective of their
9 respective rank.

10

11 **Section 20. Officers and Staff of the POAC.** Each POAC shall have the
12 following officers:

- 13
- 14 a. Legal Officer and Deputy Head of POAC
15 b. Migrants Welfare and Assistance Officer
16 c. Medical Officer
17 d. Shelter Manager
18 e. Public Engagement Officer
19 f. Foreign Language Officer
20 g. Database and IT Officer
21 h. Administrative and Personnel Officer
22 i. Finance and Property Officer

23

24 Every POAC shall be staffed with a minimum of 20 technical and administrative
25 personnel and local hires.

26

27 The Secretary of Foreign Affairs may grant, on a case-by-case basis, Attaché and
28 Assistant Attaché titles and other administrative diplomatic credentials to POAC officers
29 and staff as appropriate under existing rules, customs, usage and conditions in the host
30 country. The officer or staff will lose the title upon termination of assignment
31 or position in POAC.

32

33 **Section 21. Detail of other government personnel.** The NOEA Director-
34 General shall request for the detail to the POAC of managerial, professional, highly
35 technical and scientific personnel from the DFA, DOLE, DSWD and DOH, subject to
36 existing laws and Civil Service Rules and Regulations. Seconded personnel shall receive,

1 in addition to their respective compensation packages from their respective original
2 offices, the allowances, emoluments and all other benefits to which their POAC positions
3 are entitled to.

4

5 **Section 22. Procurements abroad.** Provisions of existing laws
6 notwithstanding, any procurement by a Philippine government agency or official from
7 foreign-based providers of goods, services or infrastructure to be used, performed or
8 constructed abroad shall be exempt from the coverage and requirements of the
9 Government Procurement Reform Act, and related rules and regulations.

10

11 **Section 23. One Country-Team Approach.** The Migration Counsellor, and all
12 attachés, officers, employees, and local hires under the POAC shall serve under the
13 authority of the Philippine Ambassador, Chargé d'Affaires or other principal officer at
14 the Embassy having jurisdiction over their country of assignment or work.

15

16 **Section 24. Mandatory Binding Arbitration Clause in Overseas
17 Employment Contract.** All employment contracts for overseas Filipino worker must
18 contain the following arbitration clause:

19

20 "Any dispute arising out of or in connection with this employment
21 contract, including any question regarding its existence, validity or termination,
22 shall be referred to and finally resolved by arbitration by the Republic of the
23 Philippines' Migration Counsellor under its Rules, which Rules are deemed to be
24 incorporated by reference into this clause.

25 The arbitrator shall be the Migration Counsellor at the seat of arbitration.

26 The seat, or legal place, of arbitration shall be at any Philippine Embassy
27 or consular office.

28 The language to be used in the arbitral proceedings shall be English.

29 The governing law of the contract shall be the substantive law of the
30 Republic of the Philippines."

31

32 **Section 25. Enforcement of arbitral awards.** The Migration Counsellor shall
33 be responsible for enforcement of arbitral awards. For this purpose, the Migration
34 Counsellor shall coordinate with authorities of the host country, and if necessary,
35 engage services of foreign licensed lawyers to initiate legal proceedings for recognition

1 and enforcement of the arbitral award in the host country.

2

3 **Section 26. Overseas Workers Assistance Fund.** There is hereby
4 established an Overseas Workers Assistance Fund (OWAF) in the initial amount of
5 2,000,000,000.00 Philippine pesos appropriated from the National Treasury and the
6 OWWA fund. Additional funding for the maintenance of the OWAF shall be appropriated
7 through the annual General Appropriations Acts. In addition, the Overseas Workers'
8 Welfare Administration (OWWA) collections may be used to augment the OWAF as
9 necessary.

10

11 **Section 27. Use of the OWAF.** The OWAF shall be used to provide legal and
12 welfare assistance to overseas Filipinos and their dependents in distress. The NOEA
13 Director-General shall issue rules, regulations, and procedures on the use of the OWAF.
14 The NOEA Board shall periodically review those rules and regulations, and may direct
15 the NOEA Director-General to amend, modify or revise those rules and regulations to
16 ensure that they remain flexible and responsive to the public interest.

17

18 **Section 28. Approving Authority for disbursements of the OWAF.** The
19 NOEA Director-General, acting through the Deputy Director-General for Assistance to
20 Migrants in Distress, shall administer, control and supervise the use of the OWAF.
21 Provided, that the Deputy Director-General may sub-allot portions of the OWAF to
22 certain POACs abroad as standby fund, and delegate authority to the responsible
23 Migration Counsellor to disburse the OWAF without prior authority from the NOEA
24 Secretariat home office.

25

26 **Section 29. Mandatory legal proceedings for Reimbursement of the
27 OWAF.** The NOEA Secretariat or the POAC shall file appropriate legal proceedings in
28 the Philippines or abroad to recover disbursements from the OWAF with claim for
29 damages, costs and legal interest against recruiters, employers, or other persons liable
30 under law or contract who denied the rights, entitlements, or assistance sought by the
31 overseas Filipino and their dependents in distress, and thereby requiring resort to the
32 OWAF. Any amounts recovered through these proceedings shall revert directly to the
33 OWAF.

34

35 **Section 30. Regional Offices.** The NOEA Secretariat is hereby authorized to

1 establish, operate, and maintain such Regional or Extension Offices in any
2 administrative regions of the country, insofar as necessary to improve coordination and
3 make the services of the NOEA readily available to the public.

4

5 **Section 31. Transition, Reorganization, staffing, budget, and transfer of**
6 **existing government agencies to the NOEA.** The Philippine Overseas Employment
7 Administration (POEA) and the Commission on Filipino Overseas (CFO) are hereby
8 abolished but will continue to function in holdover capacity for 120 days or thereafter
9 until the NOEA Board declares the NOEA Secretariat as fully operational. The budget,
10 personnel, and all other assets, and liabilities, whether tangible or intangible, of the
11 POEA and CFO shall be transferred to the NOEA Secretariat. The powers and functions
12 of the POEA and CFO shall be assumed by the NOEA. The CFO shall be primarily
13 reorganized into the NOEA Secretariat's Directorate for Planning, Data Analysis, and
14 Research / Institute of Migration Policy Studies.

15

16 The Overseas Workers Welfare Administration (OWWA) shall be attached to the
17 NOEA for purposes of policy and program coordination. The NOEA Director-General
18 shall be included as vice chairperson of the OWWA Board of Trustees.

19

20 The Director-General shall submit to the NOEA Board a reorganization plan,
21 including staffing pattern, compensation plan, and budget, within 90 days from the
22 approval of this Act. The reorganization plan shall be implemented by the Director-
23 General upon its approval by the NOEA Board.

24

25 Upon the NOEA Board's approval of the reorganization plan, and subject to
26 available funds, the NOEA Board or the Director-General shall fill the positions created
27 with regular appointments. All civil service regular or permanent employees of the
28 abolished agencies shall be absorbed or transferred to similar positions in the NOEA,
29 without loss of seniority or rank or decrease in emoluments, provided that they possess
30 the necessary qualifications for the new positions. Those who are not reappointed shall
31 be deemed separated from the service, and they shall receive the retirement benefits to
32 which they may be entitled under existing laws, rules and regulations. Otherwise, they
33 shall be paid within 3 months from their separation the equivalent of 3 months basic
34 salary for every year of service or the equivalent nearest fraction thereof favorable to
35 them on the basis of the highest salary received.

1
2 All appointments, separations, movements and other personnel actions to be
3 done in the implementation of this Act must conform to Republic Act No. 6656
4 (Reorganization Law) and relevant civil service rules and regulations.
5

6 Employees separated or retired from the abolished agencies shall not be eligible
7 for reappointment to or employment in the NOEA whether on a permanent, temporary,
8 casual or contractual status within a period of three (3) years after separation or
9 retirement.
10

11 **Section 32. Appropriations.** In addition to the collections and other monies
12 derived from the new OWAF as well as the OWWA. The following amounts shall be
13 included in the General Appropriations Act, the amount of One Billion Philippine Pesos
14 (Php1,000,000,000) the establishment and initial operations of the NOEA Board and
15 Secretariat to carry out the purpose of the Act including payment of retirement or
16 separation benefits; the amount of One Billion Five Hundred Million Philippine Pesos
17 (Php1,500,000,000) for the establishment and initial operations of the POACs abroad;
18 and the amount of One Billion Philippine Pesos (Php1,000,000,000) for the reintigration
19 programs of NOEA for repatriated Filipinos.
20

21 These appropriations shall be in addition to whatever applicable appropriations
22 may be transferred to it from among the government agencies reorganized, abolished
23 or transferred under this Act. The subsequent appropriations for the continued
24 operations of the NOEA, POACs and reintegration programs shall be included in the
25 annual General Appropriations Acts.
26

27 **Section 33. Separability Clause.** Any portion or provision of this Act that is
28 declared unconstitutional shall not have the effect of nullifying other portions or
29 provisions hereof as long as such remaining portions can still subsist and be given effect
30 in their entirety.
31

32 **Section 34. Repealing Clause.** All laws, ordinances, rules, regulations, other
33 issuances or parts thereof, which are inconsistent with this Act, are hereby repealed or
34 modified accordingly.
35

1 **Section 35. Effectivity.** This Act shall take effect immediately upon its
2 approval.

Approved,

a/B