

S. No. 3286

H. No. 5649

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fourteenth Congress

Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-seventh
day of July, two thousand nine.

[REPUBLIC ACT NO. 10022]

AN ACT AMENDING REPUBLIC ACT NO. 8042,
OTHERWISE KNOWN AS THE MIGRANT WORKERS
AND OVERSEAS FILIPINOS ACT OF 1995, AS
AMENDED, FURTHER IMPROVING THE STANDARD
OF PROTECTION AND PROMOTION OF THE
WELFARE OF MIGRANT WORKERS, THEIR
FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS,
AND FOR OTHER PURPOSES

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

SECTION 1. Paragraphs (a), (e), (g) and (h) of Section
2 of Republic Act. No. 8042, as amended, otherwise known

as the "Migrant Workers and Overseas Filipinos Act of 1995," is hereby amended to read as follows:

"(a) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular, continuously monitor international conventions, adopt/be signatory to and ratify those that guarantee protection to our migrant workers, and endeavor to enter into bilateral agreements with countries hosting overseas Filipino workers."

"(e) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. In this regard, it is imperative that an effective mechanism be instituted to ensure that the rights and interest of distressed overseas Filipinos, in general, and Filipino migrant workers, in particular, whether regular/documented or irregular/undocumented, are adequately protected and safeguarded."

"(g) The State recognizes that the most effective tool for empowerment is the possession of skills by migrant workers. The government shall provide them free and accessible skills development and enhancement programs. Pursuant to this and as soon as practicable, the government shall deploy and/or allow the deployment only of skilled Filipino workers."

"(h) The State recognizes non-governmental organizations, trade unions, workers associations, stakeholders and other similar entities duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect. The significant contribution of recruitment

and manning agencies shall form part of this partnership."

SEC. 2. Section 3, paragraph (a) of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"(a) "Overseas Filipino worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a citizen or on board a vessel navigating the 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; to be used interchangeably with migrant worker."

SEC. 3. Section 4 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 4. *Deployment of Migrant Workers.* - The State shall allow the deployment of overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. The government recognizes any of the following as a guarantee on the part of the receiving country for the protection of the rights of overseas Filipino workers:

"(a) It has existing labor and social laws protecting the rights of workers, including migrant workers;

"(b) It is a signatory to and/or a ratifier of multilateral conventions, declarations or resolutions relating to the protection of workers, including migrant workers; and

"(c) It has concluded a bilateral agreement or arrangement with the government on the protection of the rights of overseas Filipino Workers:

Provided, That the receiving country is taking positive, concrete measures to protect the rights of migrant workers in furtherance of any of the guarantees under subparagraphs (a), (b) and (c) hereof.

4

"In the absence of a clear showing that any of the aforementioned guarantees exists in the country of destination of the migrant workers, no permit for deployment shall be issued by the Philippine Overseas Employment Administration (POEA).

"The members of the POEA Governing Board who actually voted in favor of an order allowing the deployment of migrant workers without any of the aforementioned guarantees shall suffer the penalties of removal or dismissal from service with disqualification to hold any appointive public office for five (5) years. Further, the government official or employee responsible for the issuance of the permit or for allowing the deployment of migrant workers in violation of this section and in direct contravention of an order by the POEA Governing Board prohibiting deployment shall be meted the same penalties in this section.

"For this purpose, the Department of Foreign Affairs, through its foreign posts, shall issue a certification to the POEA, specifying therein the pertinent provisions of the receiving country's labor/social law, or the convention/declaration/resolution, or the bilateral agreement/arrangement which protect the rights of migrant workers.

"The State shall also allow the deployment of overseas Filipino workers to vessels navigating the foreign seas or to installations located offshore or on high seas whose owners/employers are compliant with international laws and standards that protect the rights of migrant workers.

"The State shall likewise allow the deployment of overseas Filipino workers to companies and contractors with international operations: *Provided*, That they are compliant with standards, conditions and requirements, as embodied in the employment contracts prescribed by the POEA and in accordance with internationally-accepted standards."

5

SEC. 4. Section 5 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 5. *Termination or Ban on Deployment.*
– Notwithstanding the provisions of Section 4 hereof, in pursuit of the national interest or when public welfare so requires, the POEA Governing Board, after consultation with the Department of Foreign Affairs, may, at any time, terminate or impose a ban on the deployment of migrant workers."

SEC. 5. Section 6 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 6. *Definition.* – For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: *Provided*, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

"(a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay or acknowledge any amount greater than that actually received by him as a loan or advance;

"(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;

"(c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code, or for the purpose of documenting hired workers with the POEA, which include the act of reprocessing workers through a job order that pertains to nonexistent work, work different from the actual overseas work, or work with a different employer whether registered or not with the POEA;

"(d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;

"(e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency or who has formed, joined or supported, or has contacted or is supported by any union or workers' organization;

"(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;

"(g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;

"(h) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;

"(i) To substitute or alter to the prejudice of the worker, employment contracts approved and

verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;

"(j) For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;

"(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations, or for any other reasons, other than those authorized under the Labor Code and its implementing rules and regulations;

"(l) Failure to actually deploy a contracted worker without valid reason as determined by the Department of Labor and Employment;

"(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage; and

"(n) To allow a non-Filipino citizen to head or manage a licensed recruitment/manning agency.

"Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

"In addition to the acts enumerated above, it shall also be unlawful for any person or entity to commit the following prohibited acts:

"(1) Grant a loan to an overseas Filipino worker with interest exceeding eight percent (8%) *per annum*, which will be used for payment of legal and allowable placement fees and make the migrant worker issue, either personally or through a guarantor or accommodation party, postdated checks in relation to the said loan;

"(2) Impose a compulsory and exclusive arrangement whereby an overseas Filipino worker is required to avail of a loan only from specifically designated institutions, entities or persons;

"(3) Refuse to condone or renegotiate a loan incurred by an overseas Filipino worker after the latter's employment contract has been prematurely terminated through no fault of his or her own;

"(4) Impose a compulsory and exclusive arrangement whereby an overseas Filipino worker is required to undergo health examinations only from specifically designated medical clinics, institutions, entities or persons, except in the case of a seafarer whose medical examination cost is shouldered by the principal/shipowner;

"(5) Impose a compulsory and exclusive arrangement whereby an overseas Filipino worker is required to undergo training, seminar, instruction or schooling of any kind only from specifically designated institutions, entities or persons, except for recommendatory trainings mandated by principals/shipowners where the latter shoulder the cost of such trainings;

"(6) For a suspended recruitment/manning agency to engage in any kind of recruitment activity including the processing of pending workers' applications; and

"(7) For a recruitment/manning agency or a foreign principal/employer to pass on to the overseas Filipino worker or deduct from his or her salary the payment of the cost of insurance fees, premium or other insurance related charges, as provided under the compulsory worker's insurance coverage.

"The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having ownership, control, management or direction of their business who are responsible for the commission of the offense and the responsible employees/agents thereof shall be liable.

"In the filing of cases for illegal recruitment or any of the prohibited acts under this section, the Secretary of Labor and Employment, the POEA Administrator or their duly authorized representatives, or any aggrieved person may initiate the corresponding criminal action with the appropriate office. For this purpose, the affidavits and testimonies of operatives or personnel from the Department of Labor and Employment, POEA and other law enforcement agencies who witnessed the acts constituting the offense shall be sufficient to prosecute the accused.

"In the prosecution of offenses punishable under this section, the public prosecutors of the Department of Justice shall collaborate with the anti-illegal recruitment branch of the POEA and, in certain cases, allow the POEA lawyers to take the lead in the prosecution. The POEA lawyers who act as prosecutors in such cases shall be entitled to receive additional allowances as may be determined by the POEA Administrator.

"The filing of an offense punishable under this Act shall be without prejudice to the filing of cases punishable under other existing laws, rules or regulations."

SEC. 6. Section 7 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 7. *Penalties.* -

"(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than twelve (12) years and one (1) day but not more than twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) nor more than Two million pesos (P2,000,000.00).

"(b) The penalty of life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) nor more than Five million pesos (P5,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined therein.

"*Provided, however,* That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

"(c) Any person found guilty of any of the prohibited acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00).

"If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings.

"In every case, conviction shall cause and carry the automatic revocation of the license or registration of the recruitment/manning agency, lending institution, training school or medical clinic."

SEC. 7. Section 10 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 10. *Money Claims.* - Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages. Consistent with this mandate, the NLRC shall endeavor to update and keep abreast with the developments in the global services industry.

"The liability of the principal/employer and the recruitment/placement agency for any and all claims under this section shall be joint and several. This provision shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment/placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment/placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages.

"Such liabilities shall continue during the entire period or duration of the employment contract and shall not be affected by any substitution, amendment or modification made locally or in a foreign country of the said contract.

"Any compromise/amicable settlement or voluntary agreement on money claims inclusive of damages under this section shall be paid within

thirty (30) days from the approval of the settlement by the appropriate authority.

"In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, or any unauthorized deductions from the migrant worker's salary, the worker shall be entitled to the full reimbursement of his placement fee and the deductions made with interest at twelve percent (12%) *per annum*, plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less.

"In case of a final and executory judgment against a foreign employer/principal, it shall be automatically disqualified, without further proceedings, from participating in the Philippine Overseas Employment Program and from recruiting and hiring Filipino workers until and unless it fully satisfies the judgment award.

"Noncompliance with the mandatory periods for resolutions of cases provided under this section shall subject the responsible officials to any or all of the following penalties:

"(a) The salary of any such official who fails to render his decision or resolution within the prescribed period shall be, or caused to be, withheld until the said official complies therewith;

"(b) Suspension for not more than ninety (90) days; or

"(c) Dismissal from the service with disqualification to hold any appointive public office for five (5) years.

"*Provided, however,* That the penalties herein provided shall be without prejudice to any liability which any such official may have incurred under other existing laws or rules and regulations as a

consequence of violating the provisions of this paragraph."

SEC. 8. The first paragraph of Section 13 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 13. *Free Legal Assistance; Preferential Entitlement Under the Witness Protection Program.* – A mechanism for free legal assistance for victims of illegal recruitment shall be established in the anti-illegal recruitment branch of the POEA including its regional offices. Such mechanism shall include coordination and cooperation with the Department of Justice, the Integrated Bar of the Philippines, and other non-governmental organizations and volunteer groups."

SEC. 9. Section 16 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 16. *Mandatory Repatriation of Underage Migrant Workers.* – Upon discovery or being informed of the presence of migrant workers whose actual ages fall below the minimum age requirement for overseas deployment, the responsible officers in the foreign service shall without delay repatriate said workers and advise the Department of Foreign Affairs through the fastest means of communication available of such discovery and other relevant information. The license of a recruitment/manning agency which recruited or deployed an underage migrant worker shall be automatically revoked and shall be imposed a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00). All fees pertinent to the processing of papers or documents in the recruitment or deployment shall be refunded in full by the responsible recruitment/manning agency, without need of notice, to the underage migrant worker or to his parents or guardian. The refund shall be independent of and in addition to the indemnification for the damages sustained by the underage migrant

worker. The refund shall be paid within thirty (30) days from the date of the mandatory repatriation as provided for in this Act."

SEC. 10. Section 17 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 17. *Establishment of National Reintegration Center for Overseas Filipino Workers.*
- A national reintegration center for overseas Filipino workers (NRCO) is hereby created in the Department of Labor and Employment for returning Filipino migrant workers which shall provide a mechanism for their reintegration into the Philippine society, serve as a promotion house for their local employment, and tap their skills and potentials for national development.

"The Department of Labor and Employment, the Overseas Workers Welfare Administration (OWWA), and the Philippine Overseas Employment Administration (POEA) shall, within ninety (90) days from the effectivity of this Act, formulate a program that would motivate migrant workers to plan for productive options such as entry into highly technical jobs or undertakings, livelihood and entrepreneurial development, better wage employment, and investment of savings.

"For this purpose, the Technical Education and Skills Development Authority (TESDA), the Technology Livelihood Resource Center (TLRC), and other government agencies involved in training and livelihood development shall give priority to returnees who had been employed as domestic helpers and entertainers."

SEC. 11. Section 18 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 18. *Functions of the National Reintegration Center for Overseas Filipino Workers.*
- The Center shall provide the following services:

"(a) Develop and support programs and projects for livelihood, entrepreneurship, savings, investments and financial literacy for returning Filipino migrant workers and their families in coordination with relevant stakeholders, service providers and international organizations;

"(b) Coordinate with appropriate stakeholders, service providers and relevant international organizations for the promotion, development and the full utilization of overseas Filipino worker returnees and their potentials;

"(c) Institute, in cooperation with other government agencies concerned, a computer-based information system on returning Filipino migrant workers which shall be accessible to all local recruitment agencies and employers, both public and private;

"(d) Provide a periodic study and assessment of job opportunities for returning Filipino migrant workers;

"(e) Develop and implement other appropriate programs to promote the welfare of returning Filipino migrant workers;

"(f) Maintain an internet-based communication system for on-line registration and interaction with clients, and maintain and upgrade computer-based service capabilities of the NRCO;

"(g) Develop capacity-building programs for returning overseas Filipino workers and their families, implementers, service providers, and stakeholders; and

"(h) Conduct research for policy recommendations and program development."

SEC. 12. The second paragraph of Section 19 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"The establishment and operations of the Center shall be a joint undertaking of the various government agencies. The Center shall be open for twenty-four (24) hours daily including Saturdays, Sundays and holidays, and shall be staffed by Foreign Service personnel, service attaches or officers who represent other Philippine government agencies abroad and, if available, individual volunteers and *bona fide* non-government organizations from the host countries. In countries categorized as highly problematic by the Department of Foreign Affairs and the Department of Labor and Employment and where there is a concentration of Filipino migrant workers, the government must provide a *Shari'a* or human rights lawyer, a psychologist and a social worker for the Center. In addition to these personnel, the government must also hire within the receiving country, in such number as may be needed by the post, public relation officers or case officers who are conversant, orally and in writing, with the local language, laws, customs and practices. The Labor Attache shall coordinate the operation of the Center and shall keep the Chief of Mission informed and updated on all matters affecting it."

SEC. 13. Section 20 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 20. *Establishment of a Shared Government Information System for Migration.* - An interagency committee composed of the Department of Foreign Affairs and its attached agency, the Commission on Filipinos Overseas, the Department of Labor and Employment and its attached concerned agencies, the Department of Tourism, the Department of Justice, the Bureau of Immigration, the National Bureau of Investigation, the Department of the Interior and Local Government, the National Telecommunications

Commission, the Commission on Information and Communications Technology, the National Computer Center, the National Statistical and Coordination Board, the National Statistics Office and other government agencies concerned with overseas employment shall be established to implement a shared government information system for migration. The interagency committee shall initially make available to itself the information contained in existing data bases/ files. The second phase shall involve linking of computer facilities in order to allow free-flow data exchanges and sharing among concerned agencies.

"The inter-agency committee shall be co-chaired by the Department of Foreign Affairs and the Department of Labor and Employment. The National Computer Center shall provide the necessary technical assistance and shall set the appropriate information and communications technology standards to facilitate the sharing of information among the member agencies.

"The inter-agency committee shall meet regularly to ensure the immediate and full implementation of this section and shall explore the possibility of setting up a central storage facility for the data on migration. The progress of the implementation of this section shall be included in the report to Congress of the Department of Foreign Affairs and the Department of Labor and Employment under Section 33.

"The inter-agency committee shall convene to identify existing data bases which shall be declassified and shared among member agencies. These shared data bases shall initially include, but not be limited to, the following information:

"(a) Masterlists of Filipino migrant workers/ overseas Filipinos classified according to occupation/ job category, civil status, by country/state of destination including visa classification;

"(b) Inventory of pending legal cases involving Filipino migrant workers and other Filipino nationals, including those serving prison terms;

"(c) Masterlist of departing/arriving Filipinos;

"(d) Statistical profile on Filipino migrant workers/overseas Filipinos/tourists;

"(e) Blacklisted foreigners/undesirable aliens;

"(f) Basic data on legal systems, immigration policies, marriage laws and civil and criminal codes in receiving countries particularly those with large numbers of Filipinos;

"(g) List of labor and other human rights instruments where receiving countries are signatories;

"(h) A tracking system of past and present gender disaggregated cases involving male and female migrant workers, including minors; and

"(i) Listing of overseas posts which may render assistance to overseas Filipinos, in general, and migrant workers, in particular."

SEC. 14. Subparagraph (b.1) of paragraph (b) of Section 23 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"(b.1) Philippine Overseas Employment Administration. - The Administration shall regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system. It shall also formulate and implement, in coordination with appropriate entities concerned, when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements. It shall be responsible for

the regulation and management of overseas employment from the pre-employment stage, securing the best possible employment terms and conditions for overseas Filipino workers, and taking into consideration the needs of vulnerable sectors and the peculiarities of sea-based and land-based workers. In appropriate cases, the Administration shall allow the lifting of suspension of erring recruitment/manning agencies upon the payment of fine of Fifty thousand pesos (P50,000.00) for every month of suspension.

"In addition to its powers and functions, the Administration shall inform migrant workers not only of their rights as workers but also of their rights as human beings, instruct and guide the workers how to assert their rights and provide the available mechanism to redress violation of their rights. It shall also be responsible for the implementation, in partnership with other law-enforcement agencies, of an intensified program against illegal recruitment activities. For this purpose, the POEA shall provide comprehensive Pre-Employment Orientation Seminars (PEOS) that will discuss topics such as prevention of illegal recruitment and gender-sensitivity.

"The Administration shall not engage in the recruitment and placement of overseas workers except on a government-to-government arrangement only.

"In the recruitment and placement of workers to service the requirements for trained and competent Filipino workers of foreign governments and their instrumentalities, and such other employers as public interests may require, the Administration shall deploy only to countries where the Philippines has concluded bilateral labor agreements or arrangements: *Provided*, That such countries shall guarantee to protect the rights of Filipino migrant workers; and: *Provided, further*, That such countries shall observe and/or comply

with the international laws and standards for migrant workers."

SEC. 15. Sub-paragraph (b.2) of Paragraph (b) of Section 23 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"(b.2) Overseas Workers Welfare Administration. - The Welfare officer or in his absence, the coordinating officer shall provide the Filipino migrant worker and his family all the assistance they may need in the enforcement of contractual obligations by agencies or entities and/or by their principals. In the performance of this function, he shall make representation and may call on the agencies or entities concerned to conferences or conciliation meetings for the purpose of settling the complaints or problems brought to his attention. The OWWA shall likewise formulate and implement welfare programs for overseas Filipino workers and their families while they are abroad and upon their return. It shall also ensure the awareness by the overseas Filipino workers and their families of these programs and other related governmental programs.

"In the repatriation of workers to be undertaken by OWWA, the latter shall be authorized to pay repatriation-related expenses, such as fines or penalties, subject to such guidelines as the OWWA Board of Trustees may prescribe."

SEC. 16. Under Section 23 of Republic Act No. 8042, as amended, add new paragraphs (c) and (d) with their corresponding subparagraphs to read as follows:

"(c) Department of Health. - The Department of Health (DOH) shall regulate the activities and operations of all clinics which conduct medical, physical, optical, dental, psychological and other similar examinations, hereinafter referred to as health examinations, on Filipino migrant workers as requirement for their overseas employment. Pursuant to this, the DOH shall ensure that:

"(c.1) The fees for the health examinations are regulated, regularly monitored and duly published to ensure that the said fees are reasonable and not exorbitant;

"(c.2) The Filipino migrant worker shall only be required to undergo health examinations when there is reasonable certainty that he or she will be hired and deployed to the jobsite and only those health examinations which are absolutely necessary for the type of job applied for or those specifically required by the foreign employer shall be conducted;

"(c.3) No group or groups of medical clinics shall have a monopoly of exclusively conducting health examinations on migrant workers for certain receiving countries;

"(c.4) Every Filipino migrant worker shall have the freedom to choose any of the DOH-accredited or DOH-operated clinics that will conduct his/her health examinations and that his or her rights as a patient are respected. The decking practice, which requires an overseas Filipino worker to go first to an office for registration and then farmed out to a medical clinic located elsewhere, shall not be allowed;

"(c.5) Within a period of three (3) years from the effectivity of this Act, all DOH regional and/or provincial hospitals shall establish and operate clinics that can serve the health examination requirements of Filipino migrant workers to provide them easy access to such clinics all over the country and lessen their transportation and lodging expenses; and

"(c.6) All DOH-accredited medical clinics, including the DOH-operated clinics, conducting health examinations for Filipino migrant workers shall observe the same standard operating procedures and shall comply with internationally-accepted standards in their operations to conform with the requirements of receiving countries or of foreign employers/principals.

"Any foreign employer who does not honor the results of valid health examinations conducted by a DOH-accredited or DOH-operated clinic shall be temporarily disqualified from participating in the overseas employment program, pursuant to POEA rules and regulations.

"In case an overseas Filipino worker is found to be not medically fit upon his/her immediate arrival in the country of destination, the medical clinic that conducted the health examination/s of such overseas Filipino worker shall pay for his or her repatriation back to the Philippines and the cost of deployment of such worker.

"Any DOH-accredited clinic which violates any provision of this section shall, in addition to any other liability it may have incurred, suffer the penalty of revocation of its DOH accreditation.

"Any government official or employee who violates any provision of this subsection shall be removed or dismissed from service with disqualification to hold any appointive public office for five (5) years. Such penalty is without prejudice to any other liability which he or she may have incurred under existing laws, rules or regulations.

"(d) Local Government Units. - In the fight against illegal recruitment, the local government units (LGUs), in partnership with the POEA, other concerned government agencies, and non-government organizations advocating the rights and welfare of overseas Filipino workers, shall take a proactive stance by being primarily responsible for the dissemination of information to their constituents on all aspects of overseas employment. To carry out this task, the following shall be undertaken by the LGUs:

"(d.1) Provide a venue for the POEA, other concerned government agencies and non-government organizations to conduct PEOS to their constituents on a regular basis;

"(d.2) Establish overseas Filipino worker help desk or kiosk in their localities with the objective of providing current information to their constituents on all the processes and aspects of overseas employment. Such desk or kiosk shall, as far as practicable, be fully computerized and shall be linked to the database of all concerned government agencies, particularly the POEA for its updated lists of overseas job orders and licensed recruitment agencies in good standing."

SEC. 17. Subparagraph (c) of Section 24 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"(c) To tap the assistance of reputable law firms, the Integrated Bar of the Philippines, other bar associations, and other government legal experts on overseas Filipino worker laws to complement the government's efforts to provide legal assistance to our migrant workers;"

SEC. 18. Section 25 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 25. *Legal Assistance Fund.* - There is hereby established a legal assistance fund for migrant workers, hereinafter referred to as the Legal Assistance Fund, in the amount of One hundred million pesos (P100,000,000.00) to be constituted from the following sources:

"Fifty million pesos (P50,000,000.00) from the Contingency Fund of the President;

"Thirty million pesos (P30,000,000.00) from the Presidential Social Fund;

"Twenty million pesos (P20,000,000.00) from the Welfare Fund for Overseas Workers established under Letter of Instruction No. 537, as amended by Presidential Decree Nos. 1694 and 1809; and

"An amount appropriated in the annual General Appropriations Act (GAA) which shall not

be less than Thirty million pesos (P30,000,000.00) per year: *Provided*, That the balance of the Legal Assistance Fund (LAF) including the amount appropriated for the year shall not be less than One hundred million pesos (P100,000,000.00): *Provided, further*, That the Fund shall be treated as a special fund in the National Treasury and its balance, including the amount appropriated in the GAA, which shall form part of the Fund, shall not revert to the General Fund.

"Any balances of existing funds which have been set aside by the government specifically as legal assistance or defense fund to help migrant workers shall, upon effectivity of this Act, be turned over to, and form part of, the Fund created under this Act."

SEC. 19. Section 26 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 26. *Uses of the Legal Assistance Fund.*
 - The Legal Assistance Fund created under the preceding section shall be used exclusively to provide legal services to migrant workers and overseas Filipinos in distress in accordance with the guidelines, criteria and procedures promulgated in accordance with Section 24(a) hereof. The expenditures to be charged against the Fund shall include the fees for the foreign lawyers to be hired by the Legal Assistant for Migrant Workers Affairs to represent migrant workers facing charges or in filing cases against erring or abusive employers abroad, bail bonds to secure the temporary release of workers under detention, court fees and charges and other litigation expenses: *Provided*, That at the end of every year, the Department of Foreign Affairs shall include in its report to Congress, as provided for under Section 33 of this Act, the status of the Legal Assistance Fund, including the expenditures from the said fund duly audited by the Commission on Audit (COA): *Provided, further*, That the hiring of foreign legal counsels, when circumstances

warrant urgent action, shall be exempt from the coverage of Republic Act No. 9184 or the Government Procurement Act."

SEC. 20. Section 32 of Republic Act No. 8042, amended, is hereby amended to read as follows:

"SEC. 32. *POEA, OWWA and other Boards; Additional Memberships.* - Notwithstanding any provision of law to the contrary, the respective Boards of the POEA and the OWWA shall, in addition to their present composition, have three (3) members each who shall come from the women, sea-based and land-based sectors respectively, to be selected and nominated openly by the general membership of the sector being represented.

"The selection and nomination of the additional members from the women, sea-based and land-based sectors shall be governed by the following guidelines:

"(a) The POEA and the OWWA shall launch a massive information campaign on the selection of nominees and provide for a system of consultative sessions for the certified leaders or representatives of the concerned sectors, at least three (3) times, within ninety (90) days before the boards shall be convened, for purposes of selection. The process shall be open, democratic and transparent;

"(b) Only non-government organizations that protect and promote the rights and welfare of overseas Filipino workers, duly registered with the appropriate Philippine government agency and in good standing as such, and in existence for at least three (3) years prior to the nomination shall be qualified to nominate a representative for each sector to the Board;

"(c) The nominee must be at least twenty-five (25) years of age, able to read and write, and a migrant worker at the time of his or her

nomination or was a migrant worker with at least three (3) years experience as such; and

"(d) A final list of all the nominees selected by the OWWA/POEA governing boards, which shall consist of three (3) names for each sector to be represented, shall be submitted to the President and published in a newspaper of general circulation;

"Within thirty (30) days from the submission of the list, the President shall select and appoint from the list the representatives to the POEA/OWWA governing boards.

"The additional members shall have a term of three (3) years and shall be eligible for reappointment for another three (3) years. In case of vacancy, the President shall, in accordance with the provisions of this Act, appoint a replacement who shall serve the unexpired term of his or her predecessor.

"Any executive issuances or orders issued that contravene the provisions of this section shall have no force and effect.

"All other government agencies and government-owned or -controlled corporations which require at least one (1) representative from the overseas workers sector to their respective boards shall follow all the applicable provisions of this section."

SEC. 21. The first and last paragraph of Section 33 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 33. *Report to Congress.* - In order to inform the Philippine Congress on the implementation of the policy enunciated in Section 4 hereof, the Department of Foreign Affairs and the Department of Labor and Employment shall submit separately to the said body a semi-annual report of Philippine foreign posts located in countries hosting

Filipino migrant workers. The mid-year report covering the period January to June shall be submitted not later than October 31 of the same year while the year-end report covering the period July to December shall be submitted not later than May 31 of the following year. The report shall include, but shall not be limited to, the following information:

" X X X

"Any officer of the government who fails to submit the report as stated in this section shall be subject to an administrative penalty of dismissal from the service with disqualification to hold any appointive public office for five (5) years."

SEC. 22. Section 35 of Republic Act No. 8042, as amended, is hereby amended to read as follows:

"SEC. 35. *Exemption from Travel Tax, Documentary Stamp Tax and Airport Fee.* - All laws to the contrary notwithstanding, the migrant worker shall be exempt from the payment of travel tax and airport-fee upon proper showing of proof of entitlement by the POEA.

"The remittances of all overseas Filipino workers, upon showing of the same proof of entitlement by the overseas Filipino worker's beneficiary or recipient, shall be exempt from the payment of documentary stamp tax."

SEC. 23. A new Section 37-A of Republic Act No. 8042, as amended, is hereby added to read as follows:

"SEC. 37-A. *Compulsory Insurance Coverage for Agency-Hired Workers.* - In addition to the performance bond to be filed by the recruitment/manning agency under Section 10, each migrant worker deployed by a recruitment/manning agency shall be covered by a compulsory insurance policy which shall be secured at no cost to the said worker.

Such insurance policy shall be effective for the duration of the migrant worker's employment contract and shall cover, at the minimum:

"(a) Accidental death, with at least Fifteen thousand United States dollars (US\$15,000.00) survivor's benefit payable to the migrant worker's beneficiaries;

"(b) Natural death, with at least Ten thousand United States dollars (US\$10,000.00) survivor's benefit payable to the migrant worker's beneficiaries;

"(c) Permanent total disablement, with at least Seven thousand five hundred United States dollars (US\$7,500.00) disability benefit payable to the migrant worker. The following disabilities shall be deemed permanent: total, complete loss of sight of both eyes; loss of two (2) limbs at or above the ankles or wrists; permanent complete paralysis of two (2) limbs; brain injury resulting to incurable imbecility or insanity;

"(d) Repatriation cost of the worker when his/her employment is terminated without any valid cause, including the transport of his or her personal belongings. In case of death, the insurance provider shall arrange and pay for the repatriation or return of the worker's remains. The insurance provider shall also render any assistance necessary in the transport including, but not limited to, locating a local and licensed funeral home, mortuary or direct disposition facility to prepare the body for transport, completing all documentation, obtaining legal clearances, procuring consular services, providing death certificates, purchasing the minimally necessary casket or air transport container, as well as transporting the remains including retrieval from site of death and delivery to the receiving funeral home;

"(e) Subsistence allowance benefit, with at least One hundred United States dollars (US\$100.00)

per month for a maximum of six (6) months for a migrant worker who is involved in a case or litigation for the protection of his/her rights in the receiving country;

"(f) Money claims arising from employer's liability which may be awarded or given to the worker in a judgement or settlement of his or her case in the NLRC. The insurance coverage for money claims shall be equivalent to at least three (3) months for every year of the migrant worker's employment contract;

"In addition to the above coverage, the insurance policy shall also include:

"(g) Compassionate visit. When a migrant worker is hospitalized and has been confined for at least seven (7) consecutive days, he shall be entitled to a compassionate visit by one (1) family member or a requested individual. The insurance company shall pay for the transportation cost of the family member or requested individual to the major airport closest to the place of hospitalization of the worker. It is, however, the responsibility of the family member or requested individual to meet all visa and travel document requirements;

"(h) Medical evacuation. When an adequate medical facility is not available proximate to the migrant worker, as determined by the insurance company's physician and/or a consulting physician, evacuation under appropriate medical supervision by the mode of transport necessary shall be undertaken by the insurance provider; and

"(i) Medical repatriation. When medically necessary as determined by the attending physician, repatriation under medical supervision to the migrant worker's residence shall be undertaken by the insurance provider at such time that the migrant worker is medically cleared for travel by commercial carrier. If the period to receive medical

clearance to travel exceeds fourteen (14) days from the date of discharge from the hospital, an alternative appropriate mode of transportation, such as air ambulance, may be arranged. Medical and non-medical escorts may be provided when necessary.

"Only reputable private insurance companies duly registered with the Insurance Commission (IC), which are in existence and operational for at least five (5) years, with a net worth of at least Five hundred million pesos (P500,000,000.00) to be determined by the IC, and with a current year certificate of authority shall be qualified to provide for the worker's insurance coverage. Insurance companies who have directors, partners, officers, employees or agents with relatives, within the fourth civil degree of consanguinity or affinity, who work or have interest in any of the licensed recruitment/manning agencies or in any of the government agencies involved in the overseas employment program shall be disqualified from providing this workers' insurance coverage.

"The recruitment/manning agency shall have the right to choose from any of the qualified insurance providers the company that will insure the migrant worker it will deploy. After procuring such insurance policy, the recruitment/manning agency shall provide an authenticated copy thereof to the migrant worker. It shall then submit the certificate of insurance coverage of the migrant worker to POEA as a requirement for the issuance of an Overseas Employment Certificate (OEC) to the migrant worker. In the case of seafarers who are insured under policies issued by foreign insurance companies, the POEA shall accept certificates or other proofs of cover from recruitment/manning agencies: *Provided*, That the minimum coverage under sub-paragraphs (a) to (i) are included therein.

"Any person having a claim upon the policy issued pursuant to subparagraphs (a), (b), (c), (d)

and (e) of this section shall present to the insurance company concerned a written notice of claim together with pertinent supporting documents. The insurance company shall forthwith ascertain the truth and extent of the claim and make payment within ten (10) days from the filing of the notice of claim.

"Any claim arising from accidental death, natural death or disablement under this section shall be paid by the insurance company without any contest and without the necessity of proving fault or negligence of any kind on the part of the insured migrant worker: *Provided*, That the following documents, duly authenticated by the Philippine foreign posts, shall be sufficient evidence to substantiate the claim:

"(1) Death Certificate – In case of natural or accidental death;

"(2) Police or Accident Report – In case of accidental death; and

"(3) Medical Certificate – In case of permanent disablement;

"For repatriation under subparagraph (d) hereof, a certification which states the reason/s for the termination of the migrant worker's employment and the need for his or her repatriation shall be issued by the Philippine foreign post or the Philippine Overseas Labor Office (POLO) located in the receiving country.

"For subsistence allowance benefit under subparagraph (e), the concerned labor attache or, in his absence, the embassy or consular official shall issue a certification which states the name of the case, the names of the parties and the nature of the cause of action of the migrant worker.

"For the payment of money claims under subparagraph (f), the following rules shall govern:

"(1) After a decision has become final and executory or a settlement/compromise agreement has been reached between the parties at the NLRC, an order shall be released mandating the respondent recruitment/manning agency to pay the amount adjudged or agreed upon within thirty (30) days;

"(2) The recruitment/manning agency shall then immediately file a notice of claim with its insurance provider for the amount of liability insured, attaching therewith a copy of the decision or compromise agreement;

"(3) Within ten (10) days from the filing of notice of claim, the insurance company shall make payment to the recruitment/manning agency the amount adjudged or agreed upon, or the amount of liability insured, whichever is lower. After receiving the insurance payment, the recruitment/manning agency shall immediately pay the migrant worker's claim in full, taking into account that in case the amount of insurance coverage is insufficient to satisfy the amount adjudged or agreed upon, it is liable to pay the balance thereof;

"(4) In case the insurance company fails to make payment within ten (10) days from the filing of the claim, the recruitment/manning agency shall pay the amount adjudged or agreed upon within the remaining days of the thirty (30)-day period, as provided in the first subparagraph hereof;

"(5) If the worker's claim was not settled within the aforesaid thirty (30)-day period, the recruitment/manning agency's performance bond or escrow deposit shall be forthwith garnished to satisfy the migrant worker's claim;

"(6) The provision of compulsory worker's insurance under this section shall not affect the joint and solidary liability of the foreign employer and the recruitment/manning agency under Section 10;

"(7) Lawyers for the insurance companies, unless the latter is impleaded, shall be prohibited to appear before the NLRC in money claims cases under this section.

"Any question or dispute in the enforcement of any insurance policy issued under this section shall be brought before the IC for mediation or adjudication.

"In case it is shown by substantial evidence before the POEA that the migrant worker who was deployed by a licensed recruitment/manning agency has paid for the premium or the cost of the insurance coverage or that the said insurance coverage was used as basis by the recruitment/manning agency to claim any additional fee from the migrant worker, the said licensed recruitment/manning agency shall lose its license and all its directors, partners, proprietors, officers and employees shall be perpetually disqualified from engaging in the business of recruitment of overseas workers. Such penalty is without prejudice to any other liability which such persons may have incurred under existing laws, rules or regulations.

"For migrant workers recruited by the POEA on a government-to-government arrangement, the POEA shall establish a foreign employers guarantee fund which shall be answerable to the workers' monetary claims arising from breach of contractual obligations. For migrant workers classified as rehires, name hires or direct hires, they may opt to be covered by this insurance coverage by requesting their foreign employers to pay for the cost of the insurance coverage or they may pay for the premium themselves. To protect the rights of these workers, the Department of Labor and Employment and the POEA shall provide them adequate legal assistance, including conciliation and mediation services, whether at home or abroad.

"At the end of every year, the Department of Labor and Employment and the IC shall jointly

make an assessment of the performance of all insurance providers, based upon the report of the NLRC and the POEA on their respective interactions and experiences with the insurance companies, and they shall have the authority to ban or blacklist such insurance companies which are known to be evasive or not responsive to the legitimate claims of migrant workers. The Department of Labor and Employment shall include such assessment in its year-end report to Congress.

"For purposes of this section, the Department of Labor and Employment, IC, NLRC and the POEA, in consultation with the recruitment/manning agencies and legitimate non-government organizations advocating the rights and welfare of overseas Filipino workers, shall formulate the necessary implementing rules and regulations.

"The foregoing provisions on compulsory insurance coverage shall be subject to automatic review through the Congressional Oversight Committee immediately after three (3) years from the effectivity of this Act in order to determine its efficacy in favor of the covered overseas Filipino workers and the compliance by recruitment/manning agencies and insurance companies, without prejudice to an earlier review if necessary and warranted for the purpose of modifying, amending and/or repealing these subject provisions.

SEC. 24. A new Section 37-B of Republic Act No. 8042, as amended, is hereby added to read as follows:

"SEC. 37-B. *Congressional Oversight Committee*. - There is hereby created a Joint Congressional Oversight Committee composed of five (5) Senators and five (5) Representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall be co-chaired by the chairpersons of the Senate Committee on Labor and Employment and the House of Representatives Committee on Overseas Workers Affairs. The

Oversight Committee shall have the following duties and functions:

"(a) To set the guidelines and overall framework to monitor and ensure the proper implementation of Republic Act No. 8042, as amended, as well as all programs, projects and activities related to overseas employment;

"(b) To ensure transparency and require the submission of reports from concerned government agencies on the conduct of programs, projects and policies relating to the implementation of Republic Act No. 8042, as amended;

"(c) To approve the budget for the programs of the Oversight Committee and all disbursements therefrom, including compensation of all personnel;

"(d) To submit periodic reports to the President of the Philippines and Congress on the implementation of the provisions of Republic Act No. 8042, as amended;

"(e) To determine weaknesses in the law and recommend the necessary remedial legislation or executive measures; and

"(f) To perform such other duties, functions and responsibilities as may be necessary to attain its objectives.

"The Oversight Committee shall adopt its internal rules of procedure, conduct hearings and receive testimonies, reports, and technical advice, invite or summon by subpoena *ad testificandum* any public official or private citizen to testify before it, or require any person by subpoena *duces tecum* documents or other materials as it may require consistent with the provisions of Republic Act No. 8042, as amended.

"The Oversight Committee shall organize its staff and technical panel, and appoint such

personnel, whether on secondment from the Senate and the House of Representatives or on temporary, contractual, or on consultancy, and determine their compensation subject to applicable civil service laws, rules and regulations with a view to ensuring a competent and efficient secretariat.

"The members of the Oversight Committee shall not receive additional compensation, allowances or emoluments for services rendered thereto except traveling, extraordinary and other necessary expenses to attain its goals and objectives.

"The Oversight Committee shall exist for a period of ten (10) years from the effectivity of this Act and may be extended by a joint concurrent resolution."

SEC. 25. *Implementing Rules and Regulations.* - The departments and agencies charged with carrying out the provisions of this Act, except as otherwise provided herein, in consultation with the Senate Committee on Labor and Employment and the House of Representatives Committee on Overseas Workers Affairs, shall, within sixty (60) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

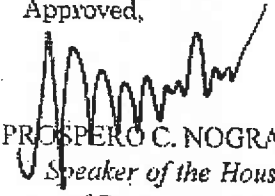
SEC. 26. *Funding.* - The departments, agencies, instrumentalities, bureaus, offices and government-owned and -controlled corporations charged with carrying out the provisions of this Act shall include in their respective programs the implementation of this Act, the funding of which shall be included in the General Appropriations Act. The Congressional Oversight Committee on Overseas Workers Affairs shall have the sum of Twenty-five million pesos (P25,000,000.00), half of which shall be charged against the current appropriations of the Senate while the other half shall be charged against the current appropriations of the House of Representatives, to carry out its powers and functions for its initial operations and for fiscal years wherein the General Appropriations Act is reenacted and no provision for its continued operation is included in such Act. Thereafter, such amount necessary for its continued operations shall be included in the annual General Appropriations Act.

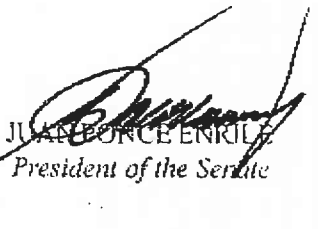
37
SEC. 27. *Separability Clause.* - If, for any reason, any portion of this Act is declared unconstitutional or invalid, the same shall not affect the validity of the other provisions not affected thereby.

SEC. 28. *Repealing Clause.* - All laws, decrees, executive orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

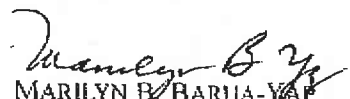
SEC. 29. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.


Approved,


PROSPERO C. NOGRALES
Speaker of the House
of Representatives


JUAN BONIFACIO ENRILE
President of the Senate

This Act which is a consolidation of Senate Bill No. 3286 and House Bill No. 5649 was finally passed by the Senate and the House of Representatives on January 18, 2010 and December 18, 2009, respectively.


MARILYN B. BARUA-YAP
Secretary General
House of Representatives


EMMA LIRIO-REYES
Secretary of the Senate

Approved:

GLORIA MACAPAGAL-ARROYO

President of the Philippines

Lapsed into law on MAR 08 2010
without the signature of the President, in accordance with Article VI,