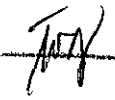


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 JUN 30 P2:41

RECEIVED BY: 

SENATE

S.B. No. - 154

Introduced by SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The passage of the Migrant Workers and Overseas Filipino Act of 1995 reflects the utmost concern of the government on the welfare of the OFWs. It is only proper as OFWs deserve the concern, having proven that they can help ease the burden of the very economy that drove them to work abroad and be far from their families.

The law, after twelve (12) years, shows that it cannot be the solid basis for our national policy on OFWs as some ideas and assumptions in the law proved to be unimplementable.

This bill is a result of extensive deliberations at the committee level of Senate in the 13th Congress, and contains the inputs of various stakeholders, particularly the concerned government agencies and the OFW communities.

This bill shall make RA 8042 a law that truly and realistically establishes higher standards of protection for OFWs and their families.

The urgent passage of this bill is therefore urged.


JINGGOY EJERCITO ESTRADA
Senator

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
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S.B. No. 154

Introduced by SEN. JINGGOY EJERCITO ESTRADA

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

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

1 **SEC. 1. *Short Title.*** - This Act shall be known and cited as the "Revised Migrant
2 Workers and Overseas Filipinos Act of 2007".

3 **SEC. 2. *Declaration of Policies.*** - (a) In the pursuit of an independent foreign
4 policy and while considering national sovereignty, territorial integrity, national interest
5 and the right to self-determination paramount in its relations with other States, the State
6 shall, at all times, uphold the dignity of its citizens whether in the country or overseas, in
7 general, and Filipino migrant workers, in particular, **CONTINUOUSLY MONITOR**
8 **INTERNATIONAL CONVENTIONS, ADOPT/BE SIGNATORY TO AND**
9 **RATIFY THOSE THAT GUARANTEE PROTECTION TO OUR MIGRANT**
10 **WORKERS, AND ENDEAVOR TO ENTER INTO BILATERAL AGREEMENTS**
11 **WITH COUNTRIES HOSTING OFWs.**

12 (b) The State shall afford full protection to labor, local and overseas, organized and
13 unorganized, and promote full employment and equality of employment opportunities for
14 all. Towards this end, the State shall provide adequate and timely social, economic and
15 legal services to Filipino migrant workers.

16 (c) While recognizing the significant contribution of Filipino migrant workers to the
17 national economy through their foreign exchange remittances, the State does not promote
18 overseas employment as a means to sustain economic growth and achieve national
19 development. The existence of the overseas employment program rests solely on the
20 assurance that the dignity and fundamental human rights and freedoms of the Filipino
21 citizen shall not, at any time, be compromised or violated. The State therefore, shall

1 continuously create local employment opportunities and promote the equitable
2 distribution of wealth and the benefits of development.

3 (d) The State affirms the fundamental equality before the law of women and men and the
4 significant role of women in nation building. Recognizing the contribution of overseas
5 migrant workers and their particular vulnerabilities, the State shall apply gender sensitive
6 criteria in the formulation and implementation of policies and programs affecting migrant
7 workers and the composition of bodies tasked for the welfare of the migrant workers.

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

13 (f) The right of Filipino migrant workers and all overseas Filipinos to participate in the
14 democratic decision-making process of the State and to be represented in institutions
15 relevant to overseas employment is recognized and guaranteed.

16 (g) The State recognizes that the **POSSESSION OF SKILLS BY** [ultimate protection to
17 all] migrant workers is **THE MOST EFFECTIVE TOOL FOR EMPOWERMENT**
18 [the possession of skills]. Pursuant to this and as soon as practicable, the government
19 shall [deploy and/or allow the deployment only to skilled Filipino workers] **PROVIDE**
20 **FREE AND ACCESSIBLE SKILLS DEVELOPMENT AND ENHANCEMENT**
21 **PROGRAMS.**

22 (h) Non-governmental organizations, **AND TRADE UNIONS**, duly recognized as
23 legitimate, are partners of the State in the protection of Filipino migrant workers and in
24 the promotion of their welfare. The State shall cooperate with them in the spirit of trust
25 and mutual respect. **THE SIGNIFICANT CONTRIBUTIONS OF THE**
26 **RECRUITMENT AND MANNING AGENCIES SHALL FORM PART OF THIS**
27 **PARTNERSHIP.**

28 (i) Government fees and other administrative costs of recruitment, introduction,
29 placement and assistance to migrant workers shall be rendered free without prejudice to
30 the provision of Section 36 hereof.

31 Nonetheless, the deployment of Filipino overseas workers, whether land-based or sea-
32 based by local service contractor and manning agencies employing them shall be
33 encouraged. Appropriate incentives may be extended to them.

34 Section 3. Section 3 of RA #8042 is hereby amended to read as follows:

35 **“SEC. 3. Definitions.** – For purpose of this Act:

36 (a) [“Migrant worker”] **“ OVERSEAS FILIPINO WORKER”** refers to a person who
37 is to be engaged, is engaged or has been engaged in a remunerated activity in a state of
38 which he or she is not a legal resident **OR ON BOARD A VESSEL PLYING**
39 **INTERNATIONAL WATERS;** to be used interchangeably with [overseas Filipino
40 worker] **MIGRANT WORKERS.**

41 (b) “Gender-sensitivity” shall mean cognizance of the inequalities and inequities

1 prevalent in society between women and men and a commitment to address issues with
2 concern for the respective interest in the sexes.

3 (c) "Overseas Filipinos" refers to dependents of migrant workers and other Filipino
4 nationals abroad who are in distress as mentioned in Sections 24 and 26 of this Act

5 (d) **PERIOD OF DEPLOYMENT- REFERS TO THE PERIOD FROM THE**
6 **SIGNING OF THE CONTRACT FOR OVERSEAS EMPLOYMENT UP TO THE**
7 **DATE OF THE ACTUAL DEPARTURE OF THE OVERSEAS FILIPINO**
8 **WORKER FROM THE PHILIPPINES.**

9
10 (e) **COMMENCEMENT OF EMPLOYMENT- REFERS TO THE DATE OF THE**
11 **ACTUAL DEPARTURE OF THE OVERSEAS FILIPINO WORKER FROM THE**
12 **PHILIPPINES FOR THE COUNTRY OF WORK.**

13 (f) **TRAFFICKING OF PERSONS SHALL MEAN THE RECRUITMENT,**
14 **TRANSPORTATION, TRANSFER, HARBORING OR RECEIPT OF PERSONS,**
15 **BY MEANS OF VIOLENCE, COERCION, DECEPTION OR ABUSE OF**
16 **AUTHORITY FOR PURPOSES OF EXPLOITATION.**

17 (g) **EXPLOITATION SHALL INCLUDE AT THE MINIMUM, ALL FORMS OF**
18 **SEXUAL EXPLOITATION, FORCED LABOR OR SERVICES, SLAVERY OR**
19 **PRACTICES SIMILAR TO SLAVERY OR SERVITUDE.**

20 Section 4. Section 4 is hereby amended to read as follows:

21

22 **"SEC. 4. *Deployment of Migrant Workers.*** – The State shall [deploy] **ALLOW**
23 **DEPLOYMENT OF** overseas Filipino workers only in countries where the rights of
24 Filipino migrant workers are protected. The government recognizes any of the following
25 as a guarantee on the part of the receiving country for the protection and the rights of
26 overseas Filipino workers:

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

28 (b) It is a signatory to multilateral conventions, declarations or resolutions relating to the
29 protection of migrant workers;

30 (c) It has included a bilateral agreement or arrangement with the government protecting
31 the rights as overseas Filipino workers; and

32 (d) **THERE ARE PROOFS THAT [I]** it is taking positive, concrete measures to protect
33 the rights of migrant workers.

34 **FURTHER, THE STATE SHALL ALLOW THE DEPLOYMENT OF OVERSEAS**
35 **FILIPINO WORKERS WHO ARE INTERNATIONAL SEAFARERS ONLY TO**
36 **INTERNATIONAL SEA-GOING VESSELS WHICH ARE COMPLYING WITH**
37 **INTERNATIONAL LAWS AND STANDARDS.**

38 **"SEC. 5. *Termination or Ban in Deployment-*** Notwithstanding the provisions of
39 Section 4 hereof, the government, in pursuit of the national interest or when public
40 welfare so requires, may, at any time, terminate or impose a ban on the deployment of
41 migrant workers.

1 Section 6. Section 6 of RA #8042 is hereby amended to read as follows.

2 **“SEC. 6. Definition.** – For purposes of this Act, illegal recruitment shall mean:

3 (1) any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or
4 procuring workers and includes referring, contract services, promising or advertising for
5 employment abroad, **OR ON BOARD INTERNATIONAL SEA-GOING VESSEL/S**
6 whether for profit or not, when under-taken by a non license or holder of authority
7 contemplated under article 13 (f) of Presidential Decree No. 442, as amended, otherwise
8 known as the Labor Code of the Philippines: Provided, That any such non-licensee or
9 non-holder who, in any manner, offers or promises for a fee abroad **OR ON BOARD**
10 **INTERNATIONAL SEA-GOING VESSEL/S** to two or more persons shall be deemed
11 so engaged.

12 (2) It shall likewise include any of the following acts, whether committed by any
13 person, whether a non-licensee, non-holder, licensee or holder of authority:

14 (a) To charge or accept directly or indirectly any amount greater than that specified in the
15 schedule of allowable fees prescribed by the Secretary of the Labor and Employment, or
16 to make a worker pay any amount greater than that actually received by him as a loan or
17 advance; **OR TO MAKE THE WORKER ISSUE POSTDATED CHECKS IN**
18 **RELATION TO THE RECRUITMENT;**

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

21 (c) To give any false notice testimony, information, document, or commit any act of
22 misrepresentation for the purpose of securing a license or authority under the Labor
23 Code;

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

27 (e) To influence or attempt to influence any person or entity not to employ any worker
28 who has not applied for employment to his agency [;], **OR WHO FORMS, JOINS, OR**
29 **SUPPORTS, OR HAS CONTACTED OR IS SUPPORTED BY ANY UNION OR**
30 **WORKERS’ ORGANIZATION;**

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

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

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

1 (i) To substitute or alter to the prejudice of the worker, employment contracts approved
 2 and verified by the Department of Labor and Employment from the time of actual signing
 3 thereof by the parties up to and including the period of the expiration of the same without
 4 the approval of the Department of Labor and Employment:

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

8 (k) To withhold or deny travel documents from applicant workers before departure for
 9 monetary or financial considerations, **OR FOR ANY OTHER REASON** other than
 10 those authorized under the Labor Code and its implementing rules and regulations;

11 (l) Failure to actually deploy without valid reasons [as determined by the Department of
 12 Labor and Employment]; and

13 (m) Failure to reimburse expenses incurred by the worker in connection with his
 14 documentation and processing for purposes of deployment, in cases where the
 15 deployment does not actually take place without the worker's fault.

16 **(N) TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN BY**
 17 **RECRUITMENT AND PLACEMENT**

18
 19 Illegal recruitment when committed by a syndicate or in a large scale shall be considered
 20 an offense involving economic sabotage.

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

25 The persons criminally liable for the above offenses are the principals, accomplices and
 26 accessories. In the case of juridical persons, the officers having control, management or
 27 direction of their business shall be liable.

28 **TO FURTHER INTENSIFY THE FIGHT AGAINST ILLEGAL RECRUITMENT,**
 29 **THE POEA THROUGH ITS ANTI-ILLEGAL RECRUITMENT BRANCH**
 30 **SHALL RECOMMEND TO THE PROPER AUTHORITY, THE IMMEDIATE**
 31 **ISSUANCE OF A WARRANT OF ARREST TO ILLEGAL RECRUITERS**
 32 **FOUND DURING THE CONDUCT OF SURVEILLANCE OR CLOSURE OF**
 33 **ESTABLISHMENTS USED FOR THE PURPOSE, AND FOR THEIR**
 34 **ENTRAPMENT OPERATIONS FOR ON-GOING ILLEGAL RECRUITMENT**
 35 **ACTIVITIES.**

36 Section 7. Section 7 of RA # 8042 is hereby amended to read as follows:

37 **“Section. 7. Penalties.** – (a) Any person found guilty of illegal recruitment shall
 38 suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not
 39 more than twelve (12) years and a fine of not less than Two hundred thousand pesos
 40 (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00). (b) The
 41 penalty of life imprisonment and a fine of not less than Five hundred thousand pesos
 42 (500,000.00) nor more than One million pesos (P1, 000,000.00) shall be imposed if
 43 illegal recruitment constitutes an economic sabotage as defined herein.

1 Provided, However, That the maximum penalty shall be imposed if the person illegally
 2 recruited is less than eighteen (18) years of age or committed **FOR TRAFFICKING OF**
 3 **PERSONS OR** by a non-licensee or non-holder of authority.”

4
 5 **SEC. 8. Prohibition on Officials and Employees.** – It shall be unlawful for any
 6 official or employee of the Department of Labor and Employment, the Philippine
 7 Overseas Employment Administration (POEA), or the Overseas Workers Welfare
 8 Administration (OWWA), or the Department of Foreign Affairs, or other government
 9 agencies involved in the implementation of this Act, or their relatives within the fourth
 10 civil degree of consanguinity or affinity, to engage, directly or indirectly, in the business
 11 of recruiting migrant workers as defined in this Act. The penalties provided in the
 12 immediate preceding paragraph shall be imposed upon them.

13 **SEC. 9. Venue.** – A criminal action arising from illegal recruitment as defined
 14 herein shall be filed with the Regional Trial Court of the province or the city where the
 15 offense was committed or where the offended party actually resides at the time of the
 16 commission of the offense: Provided that the court where the criminal action is first filed
 17 shall acquire jurisdiction to the exclusion of other courts: Provided, however, that the
 18 aforesaid provisions shall apply to those criminal actions that have already been filed in
 19 the court at the time of the effectivity of this Act.

20 Section 10. Section 10 of RA #8402 is hereby amended to read as follows:

21 **SEC. 10. Money claims.** Notwithstanding any provision of law to the contrary,
 22 the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the
 23 original and exclusive jurisdiction to hear and decide, within **ONE HUNDRED AND**
 24 **TWENTY (120)** [ninety (90)] calendar days after the filing of the complaint, the claim
 25 arising out of the employer-employee relationship or by virtue of any law or contract
 26 involving Filipino workers for overseas deployment including claims for actual, moral,
 27 and exemplary and other forms of damages. **FOR THIS PURPOSE, TWO (2)**
 28 **ADDITIONAL DIVISIONS IN THE NATIONAL LABOR RELATIONS**
 29 **COMMISSION SHALL BE CREATED AND AN ADDITIONAL NUMBER OF**
 30 **LABOR ARBITERS AND STAFF COMPLEMENT SHALL BE APPOINTED, AS**
 31 **NEEDED.**

32 The liability of the principal/employer and the recruitment/placement agency for any and
 33 all claims under this Section shall be joint and several. This provision shall be
 34 incorporated in the contract for overseas employment and shall be a condition precedent
 35 for its approval. The performance bond to be filed by the recruitment/placement agency
 36 as provided by law, shall be answerable to all money claims or damages that may be
 37 awarded to the workers. If the recruitment/placement agency is a juridical being, the
 38 corporate officers and directors and partners as the case may be, shall themselves be
 39 jointly and solidarily liable with the corporation or partnership for the aforesaid claims
 40 and damages. **ANY AGENCY WHO ASSUMES THIS LIABILITY SHALL**
 41 **LIKEWISE BE JOINT AND SOLIDARILY LIABLE TO THE SAID CLAIMS OF**
 42 **THE OFW.**

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

1 Any compromise/amicable settlement or voluntary agreement on money claims inclusive
2 of damages under this Section shall be paid within four (4) months from the approval of
3 the settlement by the appropriate authority.

4 In case of termination of overseas employment without just, valid or authorized cause as
5 defined by law or contract, the workers shall be entitled to the full reimbursement of his
6 placement fee with interest of twelve percent (12%) per annum, **COMPUTED FROM**
7 **THE DATE THE CONTRACT WAS ILLEGALLY TERMINATED**, plus his
8 salaries for the unexpired portion of his employment contract or for three (3) months for
9 every year of the unexpired term, whichever is less.

10 Noncompliance with the mandatory periods for resolution of cases provided in this
11 section shall subject the responsible officials to any or all of the following penalties:

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

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

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

18 (d) Provided, however, That the penalties herein provided shall be without prejudice to
19 any liability which any such official may have incurred under other existing laws or rules
20 and regulations as a consequence of violating the provisions of this paragraph.

21 Section 11. Section 11 is hereby amended as follows:

22 **“SEC. 11. *Mandatory Periods for Resolution of Illegal Recruitment Cases.* –**
23 The preliminary investigations of cases under this Act shall be terminated within a period
24 of thirty (30) calendar days from the date of their filing. Where the preliminary
25 investigation is conducted by a prosecution officer and a prima facie case is established,
26 the corresponding information shall be filed in court within twenty-four (24) hours from
27 the termination of the investigation. If the preliminary investigation is conducted by a
28 judge and a prima facie case is found to exist, the corresponding information shall be
29 filed with the proper prosecution officer within forty-eight (48) hours from the date of the
30 receipt of the records of the case.

31 **FOR THIS PURPOSE, THE PROSECUTION OFFICER SHALL MEAN**
32 **THE PROSECUTION ATTORNEYS OF THE ANTI-ILLEGAL RECRUITMENT**
33 **BRANCH OF THE POEA WHO SHALL HAVE THE SAME RANK, SALARY**
34 **AND PRIVILEGES AS THAT OF THE PROSECUTION OFFICERS OF THE**
35 **DEPARTMENT OF JUSTICE.**

36 Section 12. Section 12 of R. A. 8042 is hereby amended as follows:

37 **“SECTION 12. *Prescriptive Periods.* –** Illegal recruitment cases under this Act
38 shall prescribe in five (5) years: Provided, however, That illegal recruitment cases
39 involving economic sabotage as defined herein, **INVOLVING UNDER-AGE**
40 **OFWs AND ILLEGAL RECRUITMENT THROUGH TRAFFICKING OF**
41 **PERSONS** shall prescribe in twenty (20) years.

1 Section 13. Section 13 of R. A. 8042 is hereby amended to read as follows:

2 **SEC 13. Free legal assistance; Preferential Entitlement Under the Witness**
 3 **Protection Program.** –A mechanism for free legal assistance for victims of illegal
 4 recruitment shall be established **IN THE ANTI-ILLEGAL BRANCH OF THE**
 5 **PHILIPPLINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA)** [within
 6 the Department of Labor and Employment] including its regional offices. Such
 7 mechanism **SHALL** [must] include coordination and cooperation with the Department of
 8 Justice, the Integrated Bar of the Philippines, and other non-governmental organizations
 9 and volunteer groups.

10 The provisions of republic Act 6981 to the contrary notwithstanding any person who is a
 11 victim of illegal recruitment shall be entitled to the Witness Protection Program provided
 12 there under.

13 **SEC. 14. Travel Advisory/Information Dissemination.** – To give utmost priority
 14 to the establishments of programs and services to prevent illegal recruitment, fraud and
 15 exploitation or abuse of Filipino migrant workers, all embassies and consular offices,
 16 through the Philippine Overseas Employment Administration (POEA), shall issue travel
 17 advisories or disseminate information on labor and employment conditions, migration
 18 realities and other facts; and adherence of particular countries to international standards
 19 on human workers' rights which will adequately prepare individuals into making
 20 informed and intelligent decisions about overseas employment. Such advisory or
 21 information shall be published in a newspaper of general circulation at least three (3)
 22 times in every quarter.

23 Section 15. Section 15 of RA #8042 is hereby amended as follows:

24 **“Section. 15. Repatriation of Workers; Emergency Repatriation Fund.** – The
 25 repatriation of the worker and the transport of his personal belongings shall be the
 26 primary responsibility of the agency, which recruited or deployed the worker overseas.
 27 All costs attendant to repatriation shall be borne by or charged to the agency concerned
 28 and/or its principal. Likewise, the repatriation of remains and transport of personal
 29 belongings of a deceased worker and all costs attendant thereto shall be borne by the
 30 principal and/or the local agency; **FURTHER, IN CASE REPATRIATION IS**
 31 **DELAYED DUE TO NO FAULT OF THE MIGRANT WORKER, THE**
 32 **PRINCIPAL AND/OR LOCAL AGENCY SHALL PAY FOR THE BASIC NEEDS**
 33 **SUCH AS FOOD AND SHELTER OF THE WORKER WHILE ABROAD;**
 34 However, in cases where the termination of employment is due solely to the fault of the
 35 worker, the principal/employer or agency shall not in any manner be responsible for the
 36 repatriation of the former and/or his belongings.

37 The Overseas Workers Welfare Administration (OWWA), in cooperation with
 38 appropriate international agencies, shall undertake the repatriation of the workers in cases
 39 of war, epidemic, disasters or calamities, natural or manmade, and other similar events
 40 without prejudice to reimbursement by the responsible principal or agency. However, in
 41 the cases where the principal or recruitment agency cannot be identified, all costs
 42 attendant to repatriation shall be borne by (the OWWA) **THE EMERGENCY**
 43 **REPATRIATION FUND.**

44 For this purpose, there is hereby created and established an emergency repatriation fund
 45 under the administration, control and supervision of OWWA, initially to consist of One

1 Hundred Million Pesos (P100, 000,000.00), which shall be taken from the existing fund
 2 controlled and administered by the OWWA. Thereafter, such fund shall be provided for
 3 in the General Appropriations Act from year to year; Provided, that the amount provided
 4 shall in no case be less than One Hundred Million Pesos (P100, 000,000.00), inclusive of
 5 outstanding balances.

6 **SEC. 16. *Mandatory Repatriation of Underage Migrant Workers***, - Upon
 7 discovery or being informed of the presence of migrant worker whose actual age fall
 8 below the minimum age requirement for overseas deployment, the responsible officers in
 9 the foreign service shall without delay repatriate said workers and advise the Department
 10 of Foreign Affairs through the fastest means of communication available of such
 11 discovery and other relevant information.

12 Section 17. Section 17 of RA #8402 is hereby amended to read as follows:

13 **“Section 17. *Establishment of Re-placement and Monitoring Center***- A re-
 14 placement and monitoring center is hereby created in the Department of Labor and
 15 Employment for returning Filipino migrant workers which shall provide a mechanism for
 16 their reintegration into the Philippine society, serve as a promotion house for their local
 17 employment, and tap their skills and potentials for national development.

18 The Department of Labor, the Overseas Workers Welfare Administration, and the
 19 Philippine Overseas Employment Administration shall, within ninety (90) days from the
 20 affectivity of this Act, formulate a program, **AFTER CONSULTATION WITH THE**
 21 **CONCERNED SECTORS**, that would motivate migrant workers to plan for productive
 22 options such as entry into highly technical jobs or undertakings, livelihood and
 23 entrepreneurial development, better wage employment, and investment of savings.

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

28 **SEC.18. *Functions of the Re-placement and Monitoring Center*** – The Center
 29 shall provide the following services:

- 30 (a) Development livelihood programs and projects for returning Filipino migrant
 31 workers in coordination with the private sector;
- 32 (b) Coordinate with appropriate private and government agencies in the promotion,
 33 development, re-placement and the full utilization of their potentials;
- 34 (c) Institute, in cooperation with other government agencies concerned, a computer –
 35 based information system on skilled Filipino migrant workers, which shall be
 36 accessible to all local recruitment agencies and employers, both public and
 37 private;
- 38 (d) Provide a periodic study and assessment of job opportunities for returning
 39 Filipino migrant workers; and
- 40 (e) Develop and implement other appropriate program to promote the welfare of
 41 returning Filipino migrant workers.

1 **SEC. 19. Establishment of a Migrant Workers and Other Overseas Filipinos**
 2 **Resource Center-** Within the premises and under the administrative jurisdiction of
 3 the Philippine Embassy in countries where there are large concentrations of Filipino
 4 migrant workers, there shall be established a Migrant Workers and Other Overseas
 5 Filipino Resource Center with the following services:

- 6 (a) Counseling and legal services:
 7 (b) Welfare assistance including the procurement of medical and hospitalization
 8 services;
 9 (c) Information, advisory and programs to promote social integration such as
 10 post-arrival orientation, settlement and community networking services and
 11 activities for social interaction.
 12 (d) Institute a scheme of registration of undocumented workers to bring them
 13 within the purview of this Act. For this purpose, the Center is enjoined to
 14 compel existing undocumented workers to register with it within six (6)
 15 months from the effectivity of this Act, under pain of having his/her passport
 16 cancelled;
 17 (e) Human resource development, such as training and skills upgrading;
 18 (f) Gender sensitive programs and activities to assist particular needs of women
 19 migrant workers;
 20 (g) Orientation program for returning workers and other migrants; and
 21 (h) Monitoring of daily situations, circumstances and activities affecting migrant
 22 workers and other overseas Filipino.

23 The establishment and operations of the Center shall be a joint undertaking of the
 24 various government agencies. The Center shall be open for twenty-four (24) hours
 25 daily including Saturdays, Sundays, and holidays, and shall be staffed by Foreign
 26 Service personnel, service attaches or officers who represent other Philippine
 27 government agencies abroad and, if available, individual volunteers and bona fide
 28 non-government organizations from the host countries. In countries categorized as
 29 highly problematic by the Department of Foreign Affairs and the Department of
 30 Labor and Employment and where there is a concentration of Filipino migrant
 31 workers, the government must provide a lawyer and a social worker for the Center.
 32 The Labor Attaché shall coordinate the operation of the Center and shall keep the
 33 Chief of Mission informed and updated on all matters affecting it.

34 The center shall have a counterpart 24-hour information and assistance center at the
 35 Department of Foreign Affairs to ensure a continuous network and coordinative
 36 mechanism at the home office.

37 Section 20. Section 20 of RA #8042 is hereby amended to read as follows:

38 **“Section 20. Establishment of a shared Government Information System for**
 39 **Migration. – An inter-agency committee CO-CHAIR****ED BY THE DEPARTMENT**
 40 **OF LABOR AND EMPLOYMENT AND THE** [and composed of the] Department
 41 of Foreign Affairs, **FOR LOCAL AND OVERSEAS OPERATIONS,**
 42 **RESPECTIVELY,** and **THEIR** [its] attached **AGENCIES** [agency, the
 43 Commission on Filipino Overseas, the Department of Labor and Employment, the
 44 Philippine Overseas Employment administration, the Overseas Workers Welfare
 45 Administration], the Department of Tourism, the Department of Justice, the Bureau of
 46 Immigration, the National Bureau of Investigation, **THE NATIONAL COMPUTER**

1 **CENTER** and the National Statistics Office shall be established to implement a
 2 shared government information system for migration. The inter-agency committee
 3 shall initially make available to itself the information contained in existing data
 4 base/files.

5 The second phase shall involve linking of computer facilities in order to allow
 6 free-flow of data exchanged and sharing among concerned agencies. The inter-agency
 7 committee shall convene to identify existing databases, which shall be classified and
 8 shared among member agencies. These shared databases shall initially include, but
 9 not be limited to, the following information:

10 (a) Master list of Filipino migrant/overseas Filipino classified according to
 11 occupation/job category, civil status, by country/state of destination including visa
 12 classification,

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

15 (c) Master lists of departing/arriving Filipinos;

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

17 (e) Blacklisted foreigners/undesirable aliens;

18 (f) Basic data on legal systems, immigration policies, marriage laws and civil
 19 and criminal codes in receiving countries particularly those with the large number of
 20 Filipinos;

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

23 (h) A tracking system of past and present gender disaggregated cases
 24 involving male and female migrant workers; and

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

27 Section 21. Section 21 of RA #8042 is hereby deleted

28 [Sec. 21. Migrant Workers Loan Guarantee Fund. – in order to further prevent
 29 unscrupulous illegal recruiters from taking advantage of the workers seeking
 30 employment abroad, the OWWA in cooperation with government financial
 31 institutions, shall institute financial schemes that will expand the grant of pro-
 32 departure and family assistance loan. For this purpose, a Migrant Workers Loan
 33 Guarantee Fund is hereby created and the revolving amount of One hundred million
 34 pesos (P100, 000,000.00) from the OWWA is set aside as a guarantee fund in favor of
 35 participating government financial institutions.]

36 **SEC. 21 [22]. *Rights and Enforcement Mechanism Under the***
 37 ***International and Regional Human Rights System.*** – The Department of Foreign
 38 Affairs is mandated to undertake the necessary initiative such as promotions,
 39 acceptance or adherence of countries receiving Filipino workers to multilateral

1 convention, declaration or resolutions pertaining to the protection of migrant workers.
 2 The Department of Foreign Affairs is also mandated to make an assessment of rights
 3 and avenues of redress under international and regional human rights systems that are
 4 available to Filipino migrant workers who are victims of abuse and violation and, as
 5 far as practicable and through the Legal Assistant of Migrant Workers Affairs created
 6 under this Act, pursue the same on behalf of the victim if it is legally impossible to
 7 file individual complaints. If a complaints machinery is available under international
 8 and regional systems, the Department of Foreign Affairs shall fully apprise the
 9 Filipino migrant workers of the existence and effectiveness of such legal options.

10 Section 22. Section 23 of RA # 8042 is hereby amended to read as follows:

11 **SEC. 22 [23]. *Role of Government Agencies.*** – The following government
 12 agencies shall perform the following to promote the welfare and protect the rights of
 13 migrant workers and, as far as applicable, all overseas Filipinos:

14 (a) Department of Foreign Affairs – The Department, through its home office
 15 or foreign posts, shall take priority action or make representation with the foreign
 16 authority concerned to protect the rights of migrant workers and other overseas
 17 Filipinos and extend immediate assistance, including the repatriation of distressed or
 18 beleaguered migrant workers and overseas Filipino:

19 (b) Department of Labor and Employment - The Department of Labor and
 20 Employment shall see to it that labor and social welfare in other countries are fairly
 21 applied to migrant workers and whenever applicable, to other overseas Filipinos
 22 including the grant of legal assistance and the referral to proper medical centers or
 23 hospitals [:]. **FOR THE EFFICIENT MANAGEMENT OF OVERSEAS
 24 EMPLOYMENT, THE SECRETARY OF LABOR AND EMPLOYMENT
 25 SHALL MAKE AN ASSESSMENT OF THE SCOPE OF ANY SPECIFIC
 26 DEREGULATION NEEDED FOR ECONOMIC DEVELOPMENT, TAKING
 27 INTO PRIMARY CONSIDERATION THE WELFARE OF OUR MIGRANT
 28 WORKERS, IMMEDIATELY AFTER THE EFFECTIVITY OF THIS ACT
 29 AND EVERY THREE YEARS THEREAFTER, EACH TIME UPON
 30 CONSULTATION WITH THE CONCERNED SECTORS.**

31 (b.1) Philippine Overseas Employment Administration – [Subject to deregulation and
 32 phase-out as provided under sections 29 and 30 herein, the administration shall
 33 regulate private sector participation in the recruitment and overseas placement of
 34 workers by setting up a licensing and registration system. It shall also formulate and
 35 implement, in coordination with the appropriate entities concerned, when necessary, a
 36 system for promoting and monitoring the overseas employment of Filipino Workers
 37 taking into consideration their welfare and the domestic manpower requirements.]
 38 **POEA SHALL BE RESPONSIBLE FOR THE MANAGEMENT OF
 39 OVERSEAS EMPLOYMENT AT THE PRE-EMPLOYMENT STAGE,
 40 SECURING THE BEST POSSIBLE TERMS AND CONDITIONS FOR
 41 OVERSEAS EMPLOYMENT, CONSIDERING THE NEED OF THE
 42 VULNERABLE SECTORS AND THE PECULARITIES OF OVERSEAS
 43 FILIPINO WORKERS WHO ARE SEA BASED AND LAND BASED. POEA
 44 SHALL ALSO BE RESPONSIBLE FOR THE INTENSIFIED PROGRAM
 45 AGAINST ILLEGAL RECRUITMENT ACTIVITIES. FOR THIS PURPOSE,
 46 AN ANTI-ILLEGAL RECRUITMENT PROGRAM UNDER THE ANTI-
 47 ILLEGAL RECRUITMENT BRANCH OF POEA IS HEREBY**

1 **INSTITUTIONALIZED, AND FUNDED BY 10% OF THE ANNUAL INCOME**
 2 **OF POEA.**

3 **POEA SHALL FURTHER PROVIDE COMPREHENSIVE PRE-**
 4 **EMPLOYMENT SEMINARS THAT SHALL COVER SUCH MATTERS AS**
 5 **GENDER SENSITIVITY;**

6 (b. 2) Overseas Workers Welfare Administration – [The Welfare officer or in his
 7 absence, the coordinating officer shall provide the Filipino migrant worker and his
 8 family all the assistance they may need in the enforcement of contractual obligations
 9 by agencies or entities and/or by their principals. In the performance of this function,
 10 he shall make representation and may call on the agencies or entities concerned to the
 11 conferences or conciliation meetings for the purpose of settling the complaints or
 12 problems brought to his attention.] **OWWA SHALL FORMULATE AND**
 13 **IMPLEMENT WELFARE PROGRAMS FOR OVERSEAS FILIPINO**
 14 **WORKERS AND THEIR FAMILIES WHILE THE OFWS ARE ABROAD**
 15 **AND UPON THEIR RETURN. IT SHALL LIKEWISE ENSURE THE**
 16 **AWARENESS BY THE OFWS AND THEIR FAMILIES OF THESE**
 17 **PROGRAMS AND OTHER RELATED GOVERNMENTAL PROGRAMS.**

18 Section 23. Section 24 is hereby amended to read as follows:

19 **“Section 23 [24]. *Legal Assistant for Migrant Workers Affairs.*** – There is
 20 hereby created the position of Legal Assistant for Migrant Workers Affairs under the
 21 Department of Foreign Affairs who shall be primarily responsible for the provision
 22 and overall coordination of all legal assistance services to be provided to the Filipino
 23 migrant workers as well as overseas Filipinos in distress **ABROAD**. He shall have the
 24 rank, salary, privileges equal to that of an Undersecretary of said Department.

25 The said Legal Assistant for Migrant Workers Affairs, shall be appointed by the
 26 President and must be of proven competence in the field of law with at least ten (10)
 27 years of experience as a legal practitioner and must not have been candidate to an
 28 elective office in the last local or national elections.

29 Among the functions and responsibilities of the aforesaid Legal Assistant are:

- 30 (a) To issue the guidelines, procedures and criteria for the provision of legal
 31 assistance services to Filipino migrant workers;
 32 (b) To establish close linkages with the Department of Labor and Employment, the
 33 POEA, the OWWA and other government agencies concerned, as well as with non-
 34 governmental organizations assisting migrant workers, to ensure effective
 35 coordination and cooperation in the provision of legal assistance to migrant workers;
 36 (c) To tap the assistance of reputable law firms, [and] the Integrated Bar of the
 37 Philippines, [and] other bar associations, **AND OTHER GOVERNMENT LEGAL**
 38 **EXPERTS ON OFW LAWS**, to complement the government’s efforts to provide
 39 legal assistance to our migrant workers,
 40 (d) To administer the legal assistance fund for migrant workers established under
 41 Section 25 hereof and to authorize disbursements there from in accordance with the
 42 purposes for which the fund was set up; and

1 (e) To keep and maintain the information system as provided in Section 20.

2 The Legal Assistant for Migrant Workers Affairs shall have authority to hire private
3 lawyers, domestic or foreign, in order to assist him in the effective discharge of the
4 above functions.

5 **SEC. 24 [25]. *Legal Assistance Fund.*** – There is hereby established a legal
6 assistance fund for migrant workers, herein after referred to as the Legal Assistance
7 Fund, in the amount of One hundred million pesos (P100, 000,000) to be constituted
8 from the following sources: Fifty million pesos (P50, 000,000) from the Contingency
9 Fund of the President; Thirty million pesos (P30, 000,000) from the Presidential
10 Social Fund; and Twenty million pesos (20, 000,000) from the Welfare Fund for
11 Overseas Workers established under letter of Instruction No. 537, as amended by
12 Presidential Decree Nos. 1694 and 1809.

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

16 **“Section 25 [26]. *Uses of the Legal Assistance Fund.*** - The Legal Assistance
17 Fund created under the preceding Section shall be used exclusively to provide legal
18 services to migrant workers and overseas Filipino in distress in accordance with the
19 guidelines, criteria and procedures promulgated in accordance with Section 24 (a)
20 hereof. The expenditures to be charged against the Fund shall include the fees for the
21 foreign lawyers to be hired by the Legal Assistant for Migrant Workers Affairs to
22 represent migrant workers facing any legal charges and other litigation expenses.
23

24 **SEC. 26 [27]. *Priority Concerns of Philippine Foreign Service Posts.*** – The
25 country-team approach, as enunciated under Executive Order no. 74, series of 1993,
26 shall be the mode under the Philippines embassies or their personnel will operate in
27 the protection of the Filipino Migrant Workers as well as in the promotion of their
28 welfare. The protection of Filipino migrant workers and the promotion of their
29 welfare, in particular, and the protection of the dignity and fundamental rights and
30 freedoms of the Filipino citizen abroad, in general, shall be the highest priority
31 concerns of the Secretary of Foreign Affairs and the Philippine Foreign Service Posts.

32 **SEC. 27 [28]. *Country-Team Approach.*** – Under the country-team approach,
33 all officers, representatives and personnel the Philippine government posted abroad
34 regardless of their mother agencies shall, on a per country basis, act as on country-
35 team with a mission under the leadership of the Ambassador. In this regard, the
36 Ambassador may recommend to the Secretary of Foreign Affairs the recall officers,
37 representatives and personnel of the Philippine government posted abroad for acts
38 inimical to the national interest such as, but not limited to, failure to provide the
39 necessary services to protect the rights of overseas Filipinos. Upon receipt of the
40 recommendation of the Ambassador, the Secretary of Foreign Affairs shall, in the
41 case of officers, representatives and personnel of other departments endorse such
42 recommendation to the Department Secretary concerned for the appropriate action.
43 Pending investigation by an appropriate body in the Philippines, the person
44 recommended for recall may be placed under preventive suspension by the
45 Ambassador.

1 In host countries where there are Philippine consulates, such consulates will also
2 constitute part of the country-team under the leadership of the ambassador.

3 In the implementation of the country-team approach, visiting Philippine delegations
4 shall be provided full support and information.

5 Section 28. Sections 29 and 30 of RA # 8402 are repealed by R.A. 9422.

6 “Section 28. The following provisions are proposed to be renumbered in
7 view of the proposal to delete Sections 29 and 30 of this law:

8 **SEC. 29 [31]. *Incentives to Professionals and Other Highly Skilled***
9 ***Filipinos Abroad.*** – Pursuant to the objective of encouraging professionals and
10 highly-skilled Filipinos abroad especially in the field of science and technology to
11 participate in, and contribute to national development, the government shall provide
12 proper and adequate incentives and programs so as to secure their services in priority
13 development areas of the public and private sectors.

14 IX. MISCELLANEOUS PROVISIONS

15 **SEC. 30 [32]. *POEA and OWWA Board; Additional Memberships.*** –
16 Notwithstanding any provision of law to the contrary, the respective Boards of the
17 POEA and the OWWA shall, in addition to their present composition, have three (3)
18 members each who shall come from the women, sea-based and land-based sectors
19 respectively, to be appointed by the President in the same manner as the other
20 members.

21 **SEC 31 [33]. *Report to Congress.*** – In order to inform the Philippine
22 Congress on the implementation of the policy enunciated in Section 4 hereof, the
23 Department of Foreign Affairs and the Department of Labor and Employment shall
24 submit to the said body a semi-annual report of Philippine foreign posts located in the
25 countries hosting Filipino migrant workers. The report shall include, but shall not be
26 limited to, the following information.

27 (a) Masterlist of Filipino migrant workers, and inventory of pending legal
28 cases involving them and other Filipino nationals including those serving prison
29 terms;

30 (b) Working conditions of Filipino migrant workers;

31 (c) Problems encountered by the migrant workers, specifically violations of
32 their rights;

33 (d) Initiatives/actions taken by the Philippine foreign posts to address the problems of
34 Filipino migrant workers;

35 (e) Changes in the laws and policies of host countries; and

36 (f) Status of negotiations on bilateral labor agreements between the Philippines and
37 the host country.

38 Any officer of the government who fails to report as stated in the preceding section
39 shall be subject to administrative penalty.

1 **SEC. 32 [34]. *Representation in Congress.*** – Pursuant to Section 3 (2),
2 Article VI of the Constitution and in line with the objective of empowering overseas
3 Filipinos to participate in the policy-making process to address Filipino migrant
4 concerns two (2) sectoral representatives for migrant workers in the House of
5 Representatives shall be appointed by the President for the ranks of migrant workers:
6 Provided, That at least one (1) of the two (2) sectoral representatives shall come from
7 the women migrant workers sector: Provided, further, That all nominees must have at
8 least two (2) years experience as a migrant worker.

9 **SEC. 33 [35]. *Exemption from Travel Tax and airport Fee.*** All laws to the
10 contrary notwithstanding, the migrant worker shall be exempt from the payment of
11 travel tax and airport fee upon proper showing of proof of entitlement by the POEA.

12 **SEC. 34 [36]. *Non-increase of Fees; Abolition of Repatriation Bond.*** –
13 Upon approval of this Act, all fees being charged by any government office on
14 migrant workers shall remain at their present levels and repatriation bond shall be
15 abolished.

16 **SEC. 35 [37]. *The Congressional Migrant Workers Scholarship Fund.*** –
17 There is hereby created a Congressional Migrant Workers Scholarship Fund, which
18 shall benefit deserving migrant workers and/or their immediate descendants below
19 twenty-one (21) years of age who intended to pursue courses or training primarily in
20 the field of science and technology. The initial seed fund of Two hundred million
21 pesos
22 (P200, 000,000.00) shall be constituted from the following sources:

23 (a) Fifty million pesos (P50, 000,000.00) from the unexpected Countrywide
24 Development Fund for 1995 in equal sharing by all members of Congress; and

25 (b) The remaining One hundred fifty million pesos (P150, 000,000.00) shall be
26 funded from the proceeds of Lotto.

27 The Congressional Migrant Workers Scholarship Fund as herein created shall be
28 administered by the DOLE in coordination with the Department of Science and
29 Technology (DOST). To carry out the objectives of this section, the DOLE and the
30 DOST shall formulate the necessary rules and regulations.

31 **SEC. 36 [38]. *Migrant Workers Day.*** – The day of signing by the President of
32 this Act shall be designated as the Migrant Workers Day and shall henceforth be
33 commemorated as such annually.

34 **SEC. 37 [39]. *Implementing Rules and Regulations.*** – The Departments and
35 agencies charged with carrying out the provisions of this Act shall, within ninety (90)
36 days after the effectivity of this Act, formulate the necessary rules and regulation for
37 its effective implementation

38 **SEC. 38 [40] *Repealing Clause.*** – All laws, decrees, executive orders, rules
39 and regulations, or parts thereof inconsistent with the provisions of this Act are
40 hereby repealed or modified accordingly.

1 **SEC. 39** [41]. *Separability Clause.* – If, for any reason, any Section or
2 provision of this Act is held unconstitutional or invalid, the other sections or
3 provisions hereof shall not be affected thereby.

4 **SEC. 40** [42]. *Effectivity Clause.* This Act shall take effect after fifteen days
5 from its publication in the Official Gazette or in at least two (2) national newspapers
6 of general circulation whichever comes earlier.