



## **Frequently Asked Questions on the Revised Rules for the Issuance of Alien Employment Permits (DO 146-15)**

### **1. What is Alien Employment Permit (AEP)?**

An AEP is a document issued by the Department of Labor and Employment (DOLE) through its Regional Offices which is one of the requirements for a foreign national to work in the Philippines.

### **2. Who are the foreign nationals required to secure AEP?**

Foreign nationals who intend to engage in gainful employment in the Philippines with an employer – employee relationship; foreign professionals allowed by the Professional Regulation Commission (PRC) to practice their profession in the Philippines; and holders of Special Investors Resident Visa (SIRV), Special Retirees Resident Visa (SRRV), Treaty Traders Visa (9d) or Special Non-Immigrant Visa 47(a)2 who occupy any executive, advisory, supervisory, or technical position in any establishment are required to secure AEP from DOLE.

### **3. Who are exempted from securing an AEP?**

- a. All members of the diplomatic service and foreign government officials accredited by and with reciprocity arrangement with the Philippine government;
- b. Officers and staff of international organizations of which the Philippine government is a member, and their legitimate spouses desiring to work in the Philippines;
- c. All foreign nationals granted exemption by law e.g. RA 8756, Section 5, Article 60, Para 1, PD 732 Section 2 (c), PD 1590 Section 18;
- d. Owners and representatives of foreign principals whose companies are accredited by the Philippine Overseas Employment Administration (POEA), who come to the Philippines for a limited period and solely for the purpose of interviewing Filipino applicants for employment abroad;

- e. Foreign nationals who come to the Philippines to teach, present and/or conduct research studies in universities and colleges as visiting, exchange or adjunct professors under formal agreements between the universities or colleges in the Philippines and foreign universities or colleges; or between the Philippine government and foreign government: provided that the exemption is on a reciprocal basis; and
- f. Permanent resident foreign nationals and probationary or temporary resident visa holders under Section 13 of the Philippine Immigration Act of 1940.

#### **4. Who are excluded from securing an AEP?**

- a. Members of the governing board with voting rights only and do not intervene in the management of the corporation or in the day to day operation of the enterprise.
- b. Corporate officers as provided under the Corporation Code of the Philippines, Articles of Incorporation, and By-Laws of the Corporation such as President, Secretary and Treasurer.
- c. Those providing consultancy services who do not have employers in the Philippines.
- d. Intra corporate transferee who is a manager, executive or specialist in accordance with Trade Agreements and an employee of the foreign service supplier for at least one (1) year prior to deployment to a branch, subsidiary, affiliate or representative office in the Philippines.
- e. Contractual service supplier who is a manager, executive or specialist and an employee of a foreign service supplier which has no commercial presence in the Philippines.

#### **5. What is the difference between foreign nationals exempted and excluded from securing an AEP?**

Foreign nationals exempted from securing an AEP are those covered by Article 40 of the Labor Code, but not required to secure an AEP under the existing laws or guidelines. Among the exemptions are the following: all members of the diplomatic service and foreign government officials; owners and representatives of foreign principals whose companies are accredited by POEA; Permanent resident foreign nationals and probationary or

temporary resident visa holders under Section 13 of the Philippine Immigration Act of 1940; etc.

Foreign nationals excluded from obtaining an AEP are those providing/supplying services in the country but their employers are located abroad or those without employer – employee relationship in the Philippines and therefore not covered by Article 40 of the Labor Code.

Among the exclusions are the following: Members of the governing board with voting rights only; corporate officers as provided under the Corporation Code of the Philippines; Intra corporate transferee and contractual service supplier who is a manager, executive or specialist; etc.

## **6. Who may file the application for an AEP?**

An application for AEP may be filed by the foreign national, the employer, or an authorized representative.

## **7. Where shall application for an AEP be filed?**

The application for an AEP must be filed at the DOLE Regional Office or Field Office having jurisdiction over the intended place of work of the foreign national. Foreign nationals to be assigned in subsidiaries, branch offices and joint ventures, and headquarters with oversight functions in any of the branch offices, operations, or projects in the country may file application for AEP in any of the DOLE Regional/Field Offices nearest their place of work.

## **8. What are the documentary requirements to be submitted in the application for an AEP?**

- a. Duly accomplished application form. (*application form can be downloaded at the Bureau of Local Employment website*)
- b. Photocopy of Passport with valid visa or Certificate of Recognition for Refugee or Stateless Persons.
- c. Original copy of notarized appointment or contract of employment enumerating the duties and responsibilities, annual salary, and other benefits of the foreign national.
- d. Photocopy of Mayor's Permit to operate business, in case of locators in economic zones, Certification from PEZA or the Ecozone Authority

that the company is located and operating within the ecozone, while in case of a construction company, photocopy of license from PCAB or DO 18-A Registration should be submitted in lieu of Mayor's Permit

- e. Copy of employer's understudy training program to be conducted by the foreign national to transfer knowledge and/or skills to the Filipino worker.

**9. How much should the foreign national pay for the application and processing of AEP?**

The foreign national shall pay a total fee of Php 9,000.00 for a new AEP with a validity of one year. In case the period of employment is more than one year, the applicant shall pay Php 4,000.00 for every additional year or fraction thereof.

In case of renewal, the applicant shall pay a permit fee of Php 4,000.00 for each year of validity or fraction thereof.

**10. What is the processing period in the issuance of new AEP?**

All application for new AEP shall be processed after submission of complete documentary requirements and payment of required fees and fines, if there are any. The AEP shall be issued within 24 hours after publication of the name, position, employer and address, brief description of the function and salary range of the foreign national.

**11. How many AEP can be issued to foreign national?**

A foreign national may be issued one (1) AEP only at any given time.

**12. What is the period of validity of an AEP?**

The AEP shall be valid for the position and the company for which it was issued for a period of one (1) year, unless the employment contract, or other modes of engagement provides a longer period which shall not exceed three (3) years.

**13. When shall an application for renewal of AEP be filed?**

An application for renewal of AEP shall be filed not earlier than sixty (60) days before its expiration.

In the case of officers, whose appointment or election takes place **before the expiration of AEP**, the application must be filed not later than fifteen (15) working days after appointment, or before its expiration, whichever comes later.

In case the appointment or election will take place **after the expiration of the AEP**, the application for renewal must be filed **before the expiration of the AEP** which can be renewed for one (1) year. The foreign national shall submit to the issuing Regional Office the Board Secretary's Certification within fifteen (15) working days after the date of appointment. The Regional Director shall revoke the AEP after one (1) month from its issuance, if no Certification is filed.

#### **14. What is the processing period of the application for renewal of AEP?**

Application for renewal of AEP shall be processed within 24 hours after receipt of such application.

#### **15. What is the penalty for working without AEP?**

The Regional Director shall impose a fine of Php 10,000.00 for every year or a fraction thereof to a foreign national found working without a valid AEP.

Employer found employing foreign national without a valid AEP shall also pay a fine of Php 10,000.00 for every year or a fraction thereof.

#### **16. Can an AEP be denied?**

Yes. The Regional Director may deny the application for new AEP or its renewal thereof based on any of the following grounds:

- a. misrepresentation of facts in the application;
- b. submission of falsified documents;
- c. the foreign national has been convicted of a criminal offense or a fugitive from justice in the country or abroad;
- d. grave misconduct in dealing with or ill treatment of workers; or
- e. availability of a Filipino who is competent, able and willing to do the job intended for or being performed by the foreign national.

## **17. Can an AEP be cancelled or revoked?**

Yes. The Regional Director may, motu proprio or upon petition, cancel or revoke an AEP, after due process, based on any of the following grounds:

- a. non-compliance with any of the requirements or conditions for which the AEP was issued;
- b. misrepresentation of facts in the application;
- c. submission of falsified or tampered documents;
- d. meritorious objection or information against the employment of the foreign national;
- e. foreign national has been convicted of a criminal offense or a fugitive from justice;
- f. employer terminated the employment of foreign national;
- g. grave misconduct in dealing with or ill treatment of workers; or
- h. disapproval of the application for an Authority to Employ Alien by the Department of Justice (DOJ) or Special Temporary Permit by the Professional Regulation Commission (PRC), if applicable.

## **18. What is the effect of denial/cancellation/revocation of AEP?**

A foreign national whose AEP has been denied or cancelled on the grounds of (a) conviction of criminal offense or fugitive from justice in the country or abroad; or (b) grave misconduct in dealing with or ill treatment of workers is disqualified to re-apply within a period of ten (10) years from date of the order denying, cancelling or revoking the AEP.

## **19. If an application has been denied or cancelled by the Regional Office on any of the other grounds, can the foreign national apply for an AEP in other Regional Offices?**

Yes, provided the foreign national has presented evidentiary proof that the ground for denial/cancellation/revocation has been corrected.

## **20. Is there a remedy for a denied/cancelled/revoked AEP?**

Yes, the aggrieved foreign national or his authorized representative may file an appeal with the Secretary of DOLE within 10 days after receipt of copy of denial/cancellation/revocation order.

The decision of the DOLE Secretary shall be final and executory. However, the foreign national is allowed to file only a single motion for reconsideration within ten (10) days after receipt of the decision.

## **21. Can a foreign national immediately start to work upon the issuance of the AEP?**

No. The AEP is not an exclusive authority for a foreign national to work in the Philippines. It is just one of the requirements for a foreign national to legally engage in gainful employment in the country. The foreign national must obtain the required Special Temporary Permit (STP) from the Professional Regulation Commission (PRC) in case the employment involves practice of profession. The employer must obtain an Authority to Employ Alien from the Department of Justice (DOJ) where the employment of the foreign national is in a wholly or partially nationalized industry.

## **22. What is Labor Market Test?**

It is the determination if there is a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the foreign national is desired. It is implemented through publication in a newspaper of general circulation, DOLE website and posting in PESO the name position, employer, and address, a brief description of the functions to be performed by the foreign national, qualifications, monthly salary range and other benefits of the foreign national applying for an employment in the Philippines.

## **23. What is the other purpose of the publication?**

It is to inform the public that a foreign national is applying for an AEP and any interested party may provide an information with the Regional Offices on any criminal offense and grave misconduct in dealing with or ill treatment of workers committed by the applicant foreign national.

## **24. Where and until shall any interested party file an objection after publication?**

Any objection or information against the employment of the foreign national relative to labor market test must be filed with the Regional Office within thirty (30) days after publication.

However, information or criminal offense and grave misconduct in dealing with or ill treatment of workers maybe filed with the Regional Offices any time.

**25. If the foreign national lost his/her AEP, how can he/she apply for replacement?**

Foreign national can request replacement of AEP to the issuing Regional Office, however, it is subject to payment of Php 1,500.00 and supported by a duly notarized Affidavit of Loss.

**26. Is the Understudy Training Program (UTP) required in the issuance of AEP?**

Yes, the UTP is one of the requirements in the issuance of AEP, the foreign national needs to submit copy of employer's understudy training program to be conducted by the foreign national to transfer knowledge and/or skills to the Filipino worker.

For more information you may visit our website at:

[www.ble.dole.gov.ph](http://www.ble.dole.gov.ph)

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