

21 Questions and Answers about Direct Hiring

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21 Questions and Answers about Direct Hiring

21 Mga Tanong at Sagot Tungkol sa Direct Hiring

This Q & A seeks to guide prospective foreign employers and workers in the Philippines.

Ang Q & A ay nais magbigay ng wastong alituntunin para sa mga banyagang tagapamahala at manggagawa tungkol sa direct hiring sa Pilipinas.

Why is there a Direct Hire Ban?

Bakit may Direct Hire Ban?

Article 18 of the 1974 Philippine Labor Code prohibited the direct hiring of Filipino workers but provided several exemptions. This is reiterated in the subsequent laws, rules and issuances particularly RA 8042 known as the Migrant Workers Act of 1995 as amended by RA 10022, the Revised POEA Landbased Rules and Regulations Governing the Recruitment of Landbased Overseas Filipino Workers (2016) and Memorandum Circular No. 8, Series of 2018.

Isinasaad sa Artikulo 18 ng 1974 Philippine Labor Code na hindi pinapayagan ang pag-direct hire ng mga manggagawang Pilipino ngunit may mga exemptions na binangit. Ito din ay binigyang diin ng iba pang sumunod na mga batas at alituntunin tulad ng RA 8042 na tinuturing na Migrant Workers Act ng 1995 na naamendahan, ang Revised POEA Landbased Rules and Regulations Governing the Recruitment of Landbased Overseas Filipino Workers ng 2016 at ng Memorandum Circular No. 8, Series of 2018.

1. What is direct hiring for overseas employment?

Direct hiring is the process of employing a worker without the assistance of a licensed recruitment agency. (RA 10022, GBR No. 3, Series of 1994 and Memorandum Circular No.7, Series of 2003)

Ano ang direct hiring para sa trabaho sa ibang bansa?

Ang direct hiring ay ang pag-employo ng isang manggagawa na walang tulong mula sa licensed recruitment agency. (RA 10022, GBR No. 3, Series of 1994 and Memorandum Circular No. 7, Series of 2003)

2. Who are allowed to directly hire workers?

The following employers are allowed to directly hire workers as cited in Article 18 of the 1974 Philippine Labor Code and reiterated in RA 8042 as Amended by RA 10022, the 2016 Revised POEA Landbased Rules and Regulations Governing the Recruitment of Landbased Overseas Filipino Workers and **Memorandum Circular No. 8, Series of 2018:**

- a. Members of the diplomatic corps;
- b. International Organizations (ex. United Nations, ASEAN);

- c. Heads of state and government officials with the rank of at least deputy minister; and
- d. Other employers as maybe allowed by the Administration, such as:
 - 1. Those provided in a.,b., and c. above who bear a lesser rank, if endorsed by the Philippine Overseas Labor Office (POLO), or Head of Mission in the absence of the POLO;
 - 2. Professionals and skilled workers with duly executed verified/authenticated contracts containing terms and conditions over and above the standards set by the POEA. The number of professionals and skilled OFWs hired for the first time shall not exceed five (5). For the purpose of determining the number, workers hired as a group shall be counted as one; (eg. music band) or
 - 3. Workers hired by a relative/family member who is a permanent resident of the host country, except domestic workers (live-in caregiver/care worker or household service worker). **Memorandum Circular No. 5, Series of 2018 is the reference for domestic workers hired by a relative/family member.**

Sino ang maaring mag-direct hire ng manggagawa?

Ang mga sumusunod na employer ay maaaring mag-direct hire ng manggagawang Pilipino ayon sa Artikolo 18 ng 1974 Philippine Labor Code, RA 8042 na naamendahan ng RA 10022, ang 2016 Revised Landbased Rules and Regulations para sa Landbased Overseas Filipino Workers at Memorandum Circular No. 8, Series of 2018 :

- a. *Miyembro ng diplomatic corps;*
- b. *Internasyonal na Organisasyon;*
- c. *Mga pinuno ng ibang bansa hanggang sa Deputy Minister; at*
- d. *Mga ibang employer na maaaring payagan ng POEA Administrator:*
 - 1. *mga employer sa a,b, at c na may masmababang katungkulan;*
 - 2. *mga propesyonal/skilled na manggawawa ng isang pribadong kompanya na may kontratang na veripika ng POLO o napatotohanan ng Embahada ng Pilipinas at may probisyong masmataas sa pamantayan ng POEA. Ang kompanya ay pwedeng mag-direct hire minsan lamang ng limang (5) manggagawa. Ang bilang ng isang grupo ng manggagawa ay isa; (halimbawa; banda ng musikero) o*
 - 3. *mga manggagawa na kamag-anak ang kanilang employer at naninirahang permanente sa bansang pagtratabahuan maliban sa kasambahay (live-in caregiver/careworker o kasama sa bahay). **Sa mga kamag-anak na gustong kumuha ng kasambahay, ang Memorandum Circular No. 5, series of 2018 ang alituntuning susundin.***

3. What documents should be presented by the direct hire worker?

The direct hire worker should present the original and one (1) photocopy of documents required for evaluation and processing for the issuance of a POEA Clearance and Overseas Employment Certificate. The checklist of requirements for both Professionals/Skilled Workers and Household Service Workers can be viewed at the POEA Online Processing System for Direct Hires (POPS Direct).

Anong mga dokumento ang kailangang ipakita ng isang direct hire na manggagawa?

Kailangang ipakita ng direct hire na manggagawa ang orihinal at isang (1) kopya ng mga dokumentong kinakailangan para sa pagsuri at pagproseso ng POEA Clearance at ng Overseas Employment Certificate. Ang listahan ng mga kinakailangang dokumento para sa mga Professional/Skilled na manggagawa at mga Kasambahay ay nasa POEA Online Processing System para sa Direct Hires (POPS Direct).

4. Where can a worker process their employment documents as direct hire?

POEA Advisory No. 33A Series of 2022 provides for online evaluation using the POEA Online Processing System for Direct Hires (POPS-Direct). The OFW can choose preferred processing sites listed in the POPS-Direct. POPS-Direct can be viewed from the DMW website www.dmw.gov.ph.

Further, only direct hire applicants will be entertained at the Window Counters of the Direct Hire Assistance Division (DHAD) and by POEA's Regional Centers and Units.

For any clarification and follow-ups regarding Direct Hire concerns, please call 722-11-60 of the Direct Hire Assistance Division or refer to the DMW Directory to inquire from the POEA Regional Centers and Units.

Saan maaaring magproseso ng mga dokumento bilang isang direct hire?

Isinasaad ng POEA Advisory No. 33A Series of 2018 ang paggamit ng POEA Online Processing System para sa Direct Hires (POPS-Direct) para magkaroon ng online evaluation. Maaring pumili ang OFW ng pinakamalapit na processing site sa POPS Direct. Matatagpuan ang POPS Direct sa DMW website www.dmw.gov.ph.

Paalala na ang mga direct hire na aplikante lamang ang maaaring kausapin sa Window Counters ng Direct Hire Assistance Division (DHAD) at ng mga POEA Regional Centers and Units.

Para sa karagdagang kaalaman tungkol sa direct hire, maaaring tumawag sa (02) 722-11-60 ng Direct Hire Assistance Division o tingnan ang DMW Directory para magtanong sa mga POEA Regional Centers and Units.

5. How long will it take to secure an Overseas Employment Certificate (OEC) through the Direct Hire Process?

POEA Advisory No. 3A Series of 2022 provides for online evaluation using the POEA Online Processing System for Direct Hires (POPS Direct). It also provides that an evaluator will give a feedback within the seven (7) working days of ISO Process Cycle Time for the approval of the request for clearance from the direct hire ban.

- A. For employers who are either members of the diplomatic corps; international organizations; heads of state and government officials with the rank of at least deputy minister, once complete documents are uploaded under the Phase 2 requirements, the OFW maybe given an appointment within the day or the next day or as requested by the OFW for the OEC issuance.
- B. For workers whose employers belong under MC No. 8, Series of 2018 – Item d2 as maybe allowed by the Office of the POEA Administrator, the POEA Clearance from the ban on direct hiring is prepared for approval when complete documents are submitted for Phase 1 Online Evaluation. Upon receipt of the Approved Clearance from the Direct Hire Ban, the status in the POPS Direct will indicate “Approved”. The OFW can already upload Phase 2 documents and once complete documents are uploaded, the OFW maybe given an appointment within the day or the next day or as requested by the OFW for the OEC issuance.

Gaano katagal ang pagkuha ng Overseas Employment Certificate (OEC) sa processo ng Direct Hire:

Ayon sa POEA Advisory No. 3A Series of 2022, ang processo ng online evaluation ay sa pamamagitan ng POEA Online Processing System Para sa Direct Hires (POPS Direct). Ang evaluator ay magbibigay tugon sa loob ng pitong (7) araw ng ISO Process Cycle Time para sa pag-aprova ng clearance para sa direct hire ban.

- A. *Para sa mga employer na miyembro ng diplomatic corps; internasyonal na organisasyon at mga pinuno ng ibang bansa hanggang sa Deputy Minister, pag na kompleto ang mga dokumento sa Phase 2, mabibigyan agad ng appointment ang OFW para sa OEC issuance.*
- B. *Para sa mga manggagawa na ang employer ay nasa ilalim ng MC No. 8, Series of 2018 –Item d2 na maaring pahintulutan ng POEA Administrator, ang POEA Clearance patungkol sa direct hire ban ay ihahanda kung nakapagbigay ng kumpletong document na kinakailangan sa Phase 1 Online Evaluation. Pagkatanggap ng “Approved Clearance”, ilalahad sa POPS Direct ang “Approved”. Maaari ng i-submite online ang Phase 2 na mga dokumento. Pag na kompleto ang mga dokumento sa Phase 2, mabibigyan agad ng appointment ang OFW para sa OEC issuance.*

6. How will workers know that their application for POEA clearance from the direct hire ban is approved?

The POPS-Direct provides the status of the direct hire application for clearance from the direct hire ban. A notice of approved clearances for direct hires is also posted in the DMW website.

Paano malalaman ng manggagawa na ang kanilang aplikasyon para sa POEA Clearance dahil sa direct hire ban ay approbado na?

Ang POPS-Direct ay magbibigay ng status ng direct hire application para sa approval ng clearance sa direct hire ban. Mayroon din abiso ng mga approbadong POEA Clearance sa DMW website.

7. How long is the validity period of an OEC?

An OEC is valid for two (2) months or sixty (60) days from the date the OEC was issued. An OEC can only be used once for single exit from the Philippines.

Hanggang kalian maaaring gamitin ang OEC?

Ang OEC ay maaaring gamitin sa loob ng dalawang buwan o animnapu't (60) na araw mula sa araw na naibigay ang OEC. Ang OEC ay isang beses lang pwedeng gamitin palabas ng Pilipinas.

8. Why is there a need to verify, authenticate or acknowledged an apostilled employment contracts?

Based on the 2016 Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Worker Part III Rule I Section 95 Paragraph 2, it explains the reason for verification:

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Verification shall refer to the procedure being conducted or applied by the Labor Attache to ensure that all the employment rights, benefits and welfare of Filipino migrant workers at the worksite are duly protected. The Labor Attache shall also ensure that the employment contracts of overseas Filipino Workers are consistent with the prevailing employment laws, standards and practices in both the Philippines and the host country, and that the documentary requirements for overseas employment as required by the Administration are complied with.

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For countries which are signatory to the Apostille Convention, employment contracts must be POLO Verified or PE Acknowledged based on Memorandum Circular No. 8, Series of 2019 published on 29 August 2019. Likewise, employment contracts are to be authenticated or acknowledged at the Philippine Embassy (PE) or Consulate where the Overseas Filipino Workers are bound to work in countries where there is no Philippine Overseas Labor Office (POLO).

Bakit kailangang ma-verify ng POLO o mapatotohanan ng Embahada ng Pilipinas o may Apostille stamp ang kontrata ng manggagawa?

Ayon sa 2016 Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Overseas Filipino Worker Part III Rule I Section 95 Paragraph 2 isinasaad ang dahilan ng pag-verify:

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Ang pag-verify ay isang paraan na ginagawa ng Labor Attache upang matiyak na ang lahat ng karapatan, benepisyo at ikabubuti ng isang Pilipinong Manggagawa sa ibang bansa ay totoong may proteksyon. Tinitiyak ng Labor Attache na ang kontrata ng Overseas Filipino Worker (OFW) ay tugma sa batas dito sa ating bansa at kung saang bansa siya magtratabaho. Tinitiyak din na ang mga dokumentong kinakailangan para sa pangi-ibang ay nasusunod ayon sa abiso ng POEA Administrator.

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Para sa mga bansang miyembro ng Apostille Convention, kailangang may sertipikasyon na Apostille ang kontrata ng manggagawa at ito rin ay kailangang mapatotohanan ng POLO o kilalanin ng PE ayon sa Memorandum Circular No. 8, Series of 2019 na nailathala sa pampublikong dyaryo noong Agosto 29, 2019. Sa mga bansang walang POLO kailangang mapatotohanan ng Embahada ng Pilipinas ang kontrata ng manggagawa.

9. Where should the employment contract be verified or authenticated?

The employment contract is to be verified by the Philippine Overseas Labor Office (POLO) if there is a POLO over the jobsite. The contract should be authenticated by the Philippine Embassy/Consulate if the jobsite is not covered by any POLO.

Saan dapat ma-verify o mapatotohanan ang kontrata ng manggagawa?

Ang kontrata ng manggagawa ay kailangang ma-verify ng Philippine Overseas Labor Office (POLO) kung may POLO na namamahala sa lugar na pagtratabahuan. Ang kontrata ay kailangang na mapatotohanan ng Embahada ng Pilipinas o Consulado sa mga lugar na walang POLO.

10. How will it be determined if an employer has already hired five (5) directly hired workers?

The POEA Verification System shows the data of workers directly hired by the employer. An employer is given only a one-time opportunity to directly hire five (5) workers and the succeeding workers to be recruited shall be documented in partnership with a Philippine licensed recruitment agency.

Paano malalaman kung ang isang employer ay mayroon ng limang (5) direct hire na manggagawa?

Nakatala sa POEA Verification System kung ilan na ang manggagawa na naproseso sa direct hire. Ang isang employer ay bigyan lamang ng pagkakataon para magdirect hire ng hanggang limang (5) manggagawa.

11. When can employers with expired/cancelled accreditation to a licensed recruitment agency directly hire?

Employers previously accredited with a licensed recruitment agency may be allowed to directly hire workers after a year from the accreditation's expiration or cancellation based on MC No. 8, Series of 2018- VIII on Non-Exemption for Employers Accredited with a licensed Philippine Recruitment Agency (PRA).

Kailan maaring mag-direct hire and isang employer na may dating akreditasyon sa isang licensed recruitment agency?

Maaaring pahintulutan ang isang employer na mag-direct hire kung ang akreditasyon sa isang licensed recruitment agency ay may isang taon ng nag-expire o nakansela ayon sa MC No. 8, Series of 2018 –VIII para sa Hindi Pagpahintulot sa mga Employers na may Akreditasyon sa isang may lisensyang Philippine Recruitment Agency (PRA).

12. What is a Pre-Employment Orientation Seminar (PEOS)?

The Pre-Orientation Employment Seminar (PEOS) is a tool to educate the worker on what to expect when applying to work overseas. This is an on-line seminar which can be accessed through the DMW website www.dmw.gov.ph. After undergoing the on-line seminar, the worker shall print out the PEOS certificate which is part of the requirements for the Direct Hire Phase 2 process.

Ano ang Pre- Employment Orientation Seminar (PEOS)?

Ang Pre-Orientation Employment Seminar (PEOS) ay isang paraan upang turuan ang manggagawa kung ano ang maasahan sa kanilang paghahanap ng trabaho sa ibang bansa. Ito ay on-line seminar na makikita sa DMW website www.dmw.gov.ph. Pagkatapos mabasa ang PEOS, ang manggagawa ay kailangang mag-print ng kopya ng PEOS certificate dahil ito ay kailangang ibigay sa Phase 2 ng Direct Hire.

13. What is an E- registration?

An E- registration is the online registration of an OFW which provides the reference number for the encoding of the OFW's Overseas Employment Certificate (OEC). The E-registration can be accessed in the DMW website www.dmw.gov.ph.

Ano ang E-registration?

Ang E- registration ay ang online pagrerehistro ng isang OFW para sa pagkuha ng Overseas Employment Certificate (OEC). Ang E-registration ay makikita sa DMW website www.dmw.gov.ph. Kailangang magbigay ng kopya ng E-registration sa Phase 2 na proseso ng Direct Hire.

14. What is a compliance form?

A compliance form is issued for an employment contract which lacks provisions required by the standard POEA employment contract. The compliance form has to be signed by the employer and stamped with the company seal or logo and will form part of the worker's employment contract. The Compliance Form is submitted during the Phase 2 – Direct Hire Process for the OEC issuance.

Ano ang compliance form?

Ang compliance form ay binibigay kung ang isang kontrata ng manggagawa ay may kulang na benepisyo na dapat nakapaloob sa Standard POEA Employment Contract. Ang compliance form ay kailangan ng pirma ng employer at logo o selyo ng companya. Ang nilagdaang compliance form ay parte ng mga nakapaloob na benepisyon sa kontrata ng manggagawa. Ito ay kailangang ibigay sa Phase 2 – Direct Hire Process para sa OEC issuance.

15. What is the legal basis of the mandatory life insurance coverage for OFWs and its benefits?

The legal basis for the mandatory insurance coverage for OFWs is RA 8042 and among the benefits covered are for the following situations: Death: Loss of life due to accident; Permanent Total Disablement due to an Accident; Permanent Partial Disablement due to an Accident; Accident Medical Expenses Reimbursement; Repatriation of Remains – Expense Reimbursement. The Certificate of Life Insurance shall be submitted during the Phase 2 – Direct Hire Process for the OEC issuance.

Ano ang legal na basehan para sa sapatang pagkuha ng life insurance coverage para sa OFWs at ang benepisyo na matatanggap?

Ang legal na basehan para sa sapatang pagkuha ng life insurance coverage ay ang RA 8042 at ang mga benepisyo ay para sa mga sumusunod na sitwasyon: Pagkamatay: dahil sa aksidente; Permanteng Kapansanan dahil sa aksidente; Permante ngunit hindi pangkalahatang kapansanan dahil sa aksidente; Pagbalik ng gastusing medikal dahil sa aksidente at pagbabalik ng labi at mga nagastos na medikal. Ang Certificate ng Life Insurance ay ibibigay sa Phase 2 – Direct Hire Process para sa OEC issuance.

16. When is the worker allowed to take the Pre-Departure Orientation Seminar (PDOS)?

The POPS-Direct will provide the registration form to take the Online PDOS given by the Overseas Workers Welfare Administration (OWWA). This will be emailed to OWWA and the OFW will be given an online schedule to take the PDOS.

Kailan pinapayagang kumuha ng Pre-Departure Orientation Seminar (PDOS)?

Ang POPS Direct ay magbibigay ng registration form para sa Online PDOS ng Overseas Workers Welfare Administration (OWWA). Kailangang mag-email ang OFW sa OWWA upang mabigyan ng online PDOS schedule.

17. When is the worker advised to secure a medical certificate?

The worker is advised to secure a medical certificate when the approved POEA clearance is released and it is submitted for Phase 2 of the direct hiring process. Only medical certificates from a DOH accredited clinic for OFWs is acceptable for the issuance of an OEC.

Kailan kukuha ng medical certificate ang manggagawa?

Ang manggagawa ay maari ng kumuha ng medical certificate kapag nabigyan na siya ng POEA Clearance para sa Phase 2 ng proseso ng Direct Hiring. Ang medical certificate ay kailangang galing sa isang DOH Accredited Clinic para sa mga magtrabaho sa ibang bansa upang mabigyan ng OEC.

18. When should a worker's flight be booked if employment documents are processed through the direct hire facility?

Advisory No. 38 Series of 2018 cites: "Flight booking/departure schedule/itinerary should be finalized and confirmed by the employer only upon the issuance of the POEA Clearance to the worker. Airline tickets are not a requirement for evaluation."

Kailan kukuha ng tiket paalis ng bansa ang isang manggagawa na naproseso sa pasilidad ng direct hire?

Isinasaad sa Advisory No. 38 Series of 2018 na maaari ng bumili ng tiket o mag-iskedyul palabas ng bansa kung nabigyan na ng POEA Clearance ang isang manggagawa. Ang airline tiket ay hindi kailangan sa pag-evaluate ng mga dokumento ng manggagawa.

19. How much will be paid for the issuance of an OEC?

The amount to be paid for the issuance of an OEC varies with the US Dollar conversion rate. The following are the OEC related fees:

**FEEES FOR THE ISSUANCE OF DIRECT HIRE
OVERSEAS EMPLOYMENT CERTIFICATE (OEC)**

| | | |
|------------|-------------------------|--|
| \$100 | POEA OEC Processing Fee | DOLE D. O. 28, s. 1992 |
| \$25 | OWWA Membership Fee | RA 10801 IRR Rule IV Sec. 8 |
| P100/month | Pag-IBIG Contribution | RA 9679 IRR Rule V Sec. 1d Memorandum Circular No.06, series of 2010 |
| P2,400 | PhilHealth | PhilHealth Circular 2016-0031 |

Magkano ang babayaran sa pagkuha ng OEC?

Ang halaga ng babayaran para sa OEC ay depende sa palitan ng dolyar. Ang mga sumusunod ang mga nakapaloob na babayaran para sa pagkuha ng OEC:

| FEES FOR THE ISSUANCE OF DIRECT HIRE OVERSEAS EMPLOYMENT CERTIFICATE (OEC) | | |
|--|-------------------------|--|
| \$100 | POEA OEC Processing Fee | DOLE D. O. 28, s. 1992 |
| \$25 | OWWA Membership Fee | RA 10801 IRR Rule IV Sec. 8 |
| P100/month | Pag-IBIG Contribution | RA 9679 IRR Rule V Sec. 1d Memorandum Circular No.06, series of 2010 |
| P2,400 | PhilHealth | PhilHealth Circular 2016-0031 |

20. What is a POEA OFW Record?

POEA OFW Record refers to the documentation of an OFW once an OEC was issued by the POEA Main Office, Regional Offices, Extension Units or BM Mall Processing Centers.

Ano ang POEA OFW Record?

Ang POEA OFW Record ay dokumento ng OFW at nagpapatunay na siya ay nabigyan na ng OEC sa POEA Main Office, Regional Offices, Extension Units o BM Mall Processing Centers.

21. What documents are required by the Bureau of Immigration (BI) from an OFW at the airport terminal?

The Bureau of Immigration (BI) will require the following documents from the OFW before allowing him to depart from the Philippines to his jobsite abroad:

- 1.Passport valid at least one year at the time of submission for evaluation
Note: POEA Advisory No. 42, Series of 2019
- 2.Valid Work Visa/Entry or Work Permit
- 3.POLO Verified/Philippine Embassy Authenticated Employment Contract
- 4.Valid OEC

Anong mga dokumento ang hinahanap ng Bureau of Immigration (BI) sa isang OFW na palabas ng bansa?

Ang mga sumusunod na dokumento ang hinahanap ng Bureau of Immigration (BI) sa isang OFW bago pahintulutang makaalis ng bansa?

- 1.Pasaporte may isang taong epektibo mula sa pag-submit para sa pagsusuri
Tandaan: POEA Advisory No. 42, Series of 2019
- 2.Bisa para sa manggagawa o Permiso para makapagtrabaho sa ibang bansa
- 3.POLO Verified o Napatotohanan ng Embahada ng Pilipinas na kontrata ng manggagawa
- 4.Wastong OEC

DECENT WORK, BETTER FUTURE

Maayos na Trabaho Para sa Magandang Kinabukasan

Direct Hire Assistance Division Team

HIRE