

Consultative Council (CLCCO) of the POEA, to serve as a continuing forum for tripartite advisement and consultation with the industry stakeholders on policies and programs pursuant to the provisions of Republic Act No. 10355.

SEC. 14. *Agency Kalinga ng Sakilid para sa mga OFW na Maging Magsasaka* (KASIKO) - The Agrarian Kalinga at Sakilid para sa mga OFW na Maging Magsasaka (KASIKO) Fund is hereby established to provide legal and other forms of assistance to OFWs, separate from the funds managed by the DFA. The DFA shall create, ATN and Legal Assistance Funds for the benefit of other Filipino overseas and for consular assistance or appropriate insurance shall initially be provided for the ASKTON Fund in the General Appropriations Act of the year following its enactment into law and an appropriate amount for every year thereafter to provide assistance to OFWs at Foreign Service Posts where MWO have been established and staffed.

Within thirty (30) days from the promulgation of this Act, the Secretary, in consultation with relevant stakeholders, shall issue the necessary guidelines regarding the use of the ASKTON Fund.

A sufficient team shall be appropriated to the DFA to perform functions of the MWO in Foreign Service Posts where there is yet no such office.

SEC. 15. *Migrant Workers Office (MWO)* - The Migrant Workers Office (MWO) of the Philippine Foreign Service Post shall be the operating arm overseas of the Department. Provided, That within three (3) years from the effectivity of this Act and as far as practicable, all Philippine Foreign Service Posts shall have an existing and operational MWO. The Listing Service Posts and the establishment of the MWO of OFWs shall be prioritized in the establishment of the MWO.

Each MWO shall have the same jurisdiction, including concurrent and consular jurisdiction, as the Foreign Service Post to which it is attached.

The MWO shall absorb all the powers, existing functions and personnel of the Philippine Overseas Labor Office (POLO), and the Office for the Social Welfare Attaché (OSWA) and the powers and functions of existing ATN units of Foreign Service Posts with regard to OFWs in all Philippine embassies and consulates, and shall perform the following additional functions:

(a) Ensure the promotion and protection of the welfare and interests of OFWs and assist them in all problems arising out of employer-employee relationships including violation of work contracts, nonpayment of wages and other benefits, illegal dismissal, and other violations of the terms and conditions of their employment;

(b) Verify employment contracts and other employment-related documents;

(c) Monitor and report to the Secretary on situations and policy developments in the receiving country that may affect OFWs in particular and Philippine labor policies in general;

(d) Pursue, in coordination with the Philippine Embassy or Consulate, discussion on labor and other issues and concerns with the foreign government and/or the embassies concerned, and international organizations;

(e) Supervise and coordinate the operations of the Migrant Workers Resource Center (MWRC);

(f) Provide social welfare programs and services to OFWs, including social assistance, education and training, cultural services, financial management, reintegration, and entrepreneurial development services;

(g) Provide prompt and appropriate response to global emergency or crisis situations affecting Filipino nationals through close cooperation and coordination with the DFA;

(h) Manage cases of, and provide psychological services to, OFWs in distress, such as victims of trafficking in persons or illegal recruitment, rape or sexual abuse, maltreatment and other forms of physical or mental abuse and cases of abandoned or neglected children;

(i) Regularly update the online database system provided under Section 18 of this Act to facilitate and ensure the delivery of appropriate, timely and effective welfare services to OFWs and their families;

(j) Facilitate the repatriation of distressed OFWs and their families, including shipment of remains and personal belongings;

(k) Verify the whereabouts, status, and condition of OFWs;

(l) Provide assistance, legal or otherwise in labor, criminal, immigration and other cases filed by against OFWs, whether detained or not;

(m) Provide appropriate assistance to victims of illegal recruitment and trafficking in persons, kidnapping, hostage victims and other victims of other crimes in cooperation with the DFA;

(n) Conduct hospital visitation, and provide necessary assistance until the full recovery of the OFW concerned, and their immediate family members, who are practicable and appropriate;

(o) Ensure the protection of women migrant workers by ensuring the designation of a gender focal point officer in its offices and in MWRCs, and the conduct of regular gender-sensitivity including online VAW training and gender audits to assess responsiveness of programs and services. The gender focal point officer shall also serve as the ending-VAW focal point officer; and

(p) Perform other functions and responsibilities as may be assigned by the Secretary.

The qualifications, hiring and selection, continuous training and education, merit promotion system, and rotation system for deployment and recall of officials of the MWO shall also be established by the Department, in accordance with existing civil service rules and regulations.

The officials of the MWO who are deployed at Posts shall be designated as attachés, subject to prior clearance from the Secretary of Foreign Affairs. The Department of Migrant Workers Secretary shall designate a qualified person to head each MWO, with preference for migration specialists with at least five (5) years of experience in the said field.

In all cases, all incidents relating to the provision of ATN and other welfare services shall be considered with the implementation of the One Country-Team Approach. To this end, the functions of the MWO shall complement the diplomatic and consular functions of the DFA.

The deployment and performance of the officials of the MWO to Philippine Foreign Service Posts shall be governed by the Philippine Foreign Service Act of 1991, Vienna Convention on Consular Relations, the Vienna Convention on Diplomatic Relations and the rules and regulations imposed by the receiving State.

In the absence of doubt, the OSWA Welfare Officers shall work jointly with the MWO at the Foreign Service Post and, to the extent practicable, hold office therein.

SEC. 16. *Migrant Workers Resource Center (MWRC)* - The Migrant Workers Resource Center (MWRC) shall absorb all the powers and functions of the Migrant Workers and Other Philippine Resource Center as provided under Republic Act No. 8042, as amended. The MWRC shall be under the Department, and in addition, it shall perform the following:

existing laws and regulations, provide temporary shelter to distressed OFWs.

The day-to-day operations and activities of the Center shall be supervised and coordinated by the MWO Head who shall keep the Chief of Mission informed and updated on all matters affecting it with a written report submitted at least quarterly.

SEC. 17. *Full-Cycle National Reintegration Program* - The Department shall develop and implement a full-cycle and comprehensive national reintegration program for both documented and undocumented OFWs, which shall be embedded in all stages of migration for work beginning from pre-deployment, on-site during employment, and upon return, whether voluntary or involuntary. The reintegration program shall cover the different dimensions of support needed by the OFW such as economic, social, psychological, gender-responsive, and cultural, including skills certification and recognition of qualifications for effective employment services, and shall ensure contribution to national development through investments and transfer of technology from skilled or professional OFWs. The reintegration program shall include promoting access to social protection instruments and financial services, and reintegration of survivors of VAW and trafficking in persons. For this purpose, the NRCO shall serve as the lead office of the Department and shall coordinate all OFW training programs and services of the TRSDA, the DTI, the Department of Agriculture (DA), the Department of Science and Technology (DOST), the DOLE, and local government units, among others.

SEC. 18. *Management Information System* - The Department shall establish, in cooperation with other government agencies concerned, within six (6) months from the approval of its implementing rules and regulations, a computer-based Management Information System (MIS) and corresponding parameters on the shared access thereto, with regard to the provisions of Republic Act No. 10173 or the Data Privacy Act of 2012 and Section 20 of Republic Act No. 8042, on OFWs, including their basic profile, destination countries, skills, experience, professional capabilities, to support its operations and as well as to have a source of relevant data for programs and policy formulation. The MIS shall ensure that the data submitted are disaggregated by sex, age, migratory status, country of destination, and other relevant parameters. Each office of the Department may integrate or link its own relevant databases, as it deems necessary. Provided, That these databases are integrated into the Department's main management information system. The management information system shall also serve as the registry of skills of OFWs, which shall, as far as practicable, be congruent with the national identification and national employment program of the DOLE, the DTI, the Department of Public Works and Highways (DPWH), the DA, the Department of Tourism (DOT) and the NDA. The Department shall regularly update the system with real-time data.

The establishment and maintenance of the MIS shall be included in the annual budget of the Department.

SEC. 19. *Consolidation and Merger of Agencies and Functions* - The following agencies are hereby consolidated and merged into and constituted as the Department, and their powers and functions subsumed to the Department which shall assume and perform all their powers and functions:

(a) The POEA, as created under the Executive Order No. 247 and Republic Act No. 8042, as amended;

(b) The Office of the Undersecretary for Migrant Workers Affairs (OMWA) of the DFA as provided under Republic Act No. 8042, as amended;

(c) All Philippine Overseas Labor Offices (POLO) under the DOLE;

(d) The International Labor Affairs Bureau (ILAB) under the DOLE;

(e) The National Reintegration Center for OFWs (NRCO) under the OWWA;

(f) The National Maritime Polytechnic (NMP) under the DOLE; and

(g) The Office of the Social Welfare Attaché (OSWA) under the OSWD.

SEC. 20. *Attached Agency* - The OWWA, created under the Overseas Workers Welfare Administration Act, is hereby attached to the Department for purposes of policy and program coordination. Except as provided under this Act, the OWWA shall continue to function in accordance with its Charter. The OWWA Fund, pursuant to Sections 27 and 28 of its Charter, shall be used for the welfare of members-OWWA and their families and no fund shall be withdrawn from the OWWA Fund to respond, aid, supplement, or in any manner augment any required expenditure by other government agencies. Provided, further, That nothing in this Act shall be construed as diminishing the benefits already received by OFWs and their families from the OWWA Fund or relieving or diminishing retirement, death, or disability benefits or entitlements from the mandated social protection schemes. The Secretary shall replace the Secretary of Labor and Employment as member of the OWWA Board of Trustees and shall act as Chairperson of the OWWA Board. For the avoidance of doubt, the DOLE Secretary shall remain as a member of the Board and the POEA Administrator shall be replaced by the SSS President as member of the OWWA Board.

The Department shall form a body within reasonable time, with OWWA, SSS and other relevant agencies, to find ways to extend the actuarial life of the OWWA Fund.

SEC. 21. *Reorganization and Other Transitory Provisions* - In the transfer of functions of affected agencies under this Act, the following rules shall apply:

(a) Any transfer of entities shall include the functions, appropriations, funds, records, equipment, facilities, other properties, assets, and liabilities of the transferred entity as well as the personnel thereof under existing laws as may be necessary and practicable, who shall, in a holdover capacity, continue to perform their respective duties and responsibilities and receive the corresponding salaries and benefits, unless in the meantime they are separated from government service pursuant to existing laws. Those personnel from the transferred entity whose positions are not included in the new position structure and staffing pattern approved by the Secretary or who are not reappointed shall be entitled to the benefits provided in the second paragraph of Section 22 hereof. Personnel from the Philippine Foreign Service shall remain under the DFA, except those whose positions are created under Republic Act No. 8042, as amended by Republic Act No. 10022;

(b) Except as otherwise provided in this Act, any transfer of functions which results in the subsuming of the entity that has exercised such transferred functions shall include, as may be necessary for the proper discharge of the transferred functions, the appropriations, funds, records, equipment, facilities, other assets, and personnel of the entity from which such functions have been transferred. The remaining appropriations and funds shall revert to the General Fund and the remaining records, equipment, facilities, and other assets shall be allocated to such appropriate units as the Secretary shall determine, or otherwise shall be disposed of, in accordance with pertinent laws, rules and regulations. The liabilities, if any, of the subsumed entity shall be treated in accordance with pertinent laws, rules and regulations. Incumbents of the subsumed entity shall, in a holdover capacity, continue to perform their respective duties and responsibilities and receive the corresponding salaries and benefits unless in the meantime they are separated from government service, pursuant to existing laws. Any such personnel whose position is not included in the new position structure and staffing pattern approved by the Secretary or who is not reappointed shall be entitled to the benefits provided in Section 22 hereof; and

(c) Any transfer of functions which does not result in the subsuming of the entity that has exercised such transferred functions shall include the appropriations, funds, records, equipment, facilities, other assets, and personnel of the entity from which such functions have been transferred, that are necessary to the proper discharge of such transferred functions. The liabilities, if any, which have been incurred in connection with the discharge of the transferred functions shall be allocated in accordance with pertinent laws, rules and regulations. Those incumbents of the entity, who are not reappointed, continue to perform their respective duties and responsibilities and receive the corresponding salaries and benefits unless in the meantime they are separated from government service pursuant to existing laws. Any such personnel whose position is not included in the new position structure and staffing pattern approved by the Secretary or who is not reappointed shall be entitled to the benefits under applicable laws, rules and regulations.

SEC. 22. *Absorption, Separation, and Retirement from Service* - The existing employees of the transferred and subsumed agencies under this Act shall enjoy security of tenure and shall be absorbed by the Department in accordance with their staffing patterns and the selection process as prescribed under Republic Act No. 6666 or the Government Reorganization Law.

Employees who are affected by the creation of the Department and are separated from service within six (6) months from the effectivity of this Act as a result of the organization and reorganization under this Act shall receive separation benefits under the Government Reorganization Law and other applicable laws, rules and regulations. Provided, That those who are qualified to retire and receive retirement benefits under existing retirement laws shall be allowed to retire. Detailed, transferred, or seconded career personnel to the Department from transferred or subsumed entities or any government entity shall neither lose seniority in rank or status, nor suffer any diminution of their salaries, allowances, or other privileges and entitlements.

The foregoing separated employees shall also receive additional separation incentives, as follows:

(a) Fifty percent (50%) of the actual monthly basic salary for every year of service, for those who have rendered less than eleven (11) years of service;

(b) Seventy-five percent (75%) of the actual monthly basic salary for every year of service computed starting from the first (1st) year, for those who have rendered eleven (11) to less than twenty-one (21) years of service;

(c) The actual monthly basic salary for every year of service, computed starting from the first (1st) year, for those who have rendered twenty-one (21) to less than thirty-one (31) years of service; and

(d) One hundred twenty-five percent (125%) of the actual monthly basic salary for every year of service, computed starting from the first (1st) year, for those who have rendered thirty-one (31) years of service and above.

Provided, That personnel who will be separated from the service as a result of the rationalization of the existing offices and will avail themselves of the incentives shall not be reemployed in any agency of the Executive Branch for a period of five (5) years, except as a teaching or medical staff in educational institutions and hospitals, respectively. Provided, further, That retired or separated personnel who are reemployed within the prohibited period shall refund the separation incentive received as a prorated base. Provided, finally, That retired or separated personnel who will undertake consultancy services for the government shall be governed by Republic Act No. 6713 or the Code of Ethics and Ethical Standards for Public Officials and Employees.

For purposes of the additional separation incentives, the actual monthly basic salary shall refer to the salary of the affected personnel as of the date of approval of the Department's organizational structure and staffing pattern by the DBM.

SEC. 23. *Transition Period* - The transfer of functions, assets, funds, equipment, properties, transactions, and personnel of the affected agencies, and the formulation of the internal organic structure, staffing pattern, operating system, transfer of records to the Department shall be completed within two (2) years from the effectivity of this Act. Provided, That until new appointments and a new staffing pattern shall have been issued, the existing personnel of all subsumed entities shall continue to assume their posts on holdover capacities until new appointments or a new staffing pattern shall have been issued. Provided, further, That after the organization and rationalization process, the Department, in coordination with the DBM, shall determine and create the new position, the funding requirements of which shall not exceed the equivalent cost of the positions subsumed.

A Transition Committee is hereby created which shall be composed of the Department of Migrant Workers Secretary, the Undersecretary for the Office of Migrant Workers Affairs of the DFA, the Administrator of the POEA, the Director of the ILAB of DOLE, the Director of the NRCO of OWWA, the Director of the National Maritime Polytechnic of DOLE and the Director of the Office of the Social Welfare Attaché of the OSWD.

The Transition Committee shall facilitate the complete and full operation of the Department which shall not be later than two (2) years after the effectivity of this Act. It shall likewise promulgate the implementing rules and regulations necessary to effectively implement the smooth and orderly transfer to the Department of the subsumed agencies.

The Transition Committee shall be tasked with the following:

(a) Formulate the necessary implementing rules and regulations of the Department within sixty (60) days after the effectivity of this Act;

(b) Publish the implementing rules and regulations of the Department within seventy-five (75) days after the effectivity of this Act;

(c) Create a staffing pattern of the Department, in consultation with the DBM, within one hundred twenty (120) days after the effectivity of this Act;

(d) Submit to the DBM the Department's budget for year 2023; and

(e) Implement the training of the personnel of the Department.

The Department shall not be constituted without an appropriation in the 2023 General Appropriations Act, an effective implementing rules and regulations, and a staffing pattern.

SEC. 24. *Coordination with the Bangsamoro Ministry of Labor and Employment* - The Department shall closely coordinate with the Bangsamoro Ministry of Labor and Employment (MOLE) on the training, protection and deployment of overseas Bangsamoro workers. Nothing herein, however, shall be construed to affect or impede the authority of the Bangsamoro MOLE on labor, employment and occupation. For the avoidance of doubt, transferred field offices of the POEA and other related offices pursuant to Republic Act No. 10184, or the Bangsamoro Organic Law (BOL), shall be excluded from the coverage of this Act.

SEC. 25. *Congressional Oversight Committee and Submission of Annual Reports* - There shall be created a Congressional Oversight Committee on Migrant Workers to monitor and oversee the implementation of the provisions of this Act.

The Committee shall be composed of six (6) members from the Senate and six (6) members from the House of Representatives with the Chairperson of the Committee on Overseas Workers Affairs of the House of Representatives and the Committee on Labor, Employment and Human Resources Development of the Senate as Co-chairpersons. The other members of each Chamber are to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The minority shall be entitled to pro rata representation but shall have at least two (2) representatives from each Chamber.

In addition, the Department shall submit an annual report to the Congressional Oversight Committee within thirty (30) days from the end of each calendar year, detailing the number of OFWs in each country and/or region, a status report of their situations, including the problems and issues they encountered, and such other relevant information to properly inform the public and the policymakers of the performance of the Department and the situation of OFWs around the world. The annual report shall include:

(a) Master list of Filipino migrant workers, and inventory of pending cases involving them, including those serving prison terms;

(b) Working conditions of Filipino migrant workers;

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

(d) Initiatives/actions taken by the Philippine Foreign Service Posts to address the problems of Filipino migrant workers;

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

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

Any office 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. 26. *Appropriations* - The amount needed for the initial implementation of this Act shall be taken from the current year's appropriations of the agencies entities, divisions, sections or bodies subsumed or transferred to the Department by virtue of this Act. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 27. *Mandatory Review by the Reorganization Commission* - Five (5) years after the effectivity of this Act, or as the need arises, the President shall constitute a Reorganization Commission which shall conduct a systematic evaluation of the accomplishments and impact of this Act, as well as the performance and organizational structure of its implementing agencies, for purposes of determining remedial legislation. In the conduct of this systematic evaluation, the Commission shall spearhead and facilitate the holding of in-depth consultations with representatives and stakeholders involved in migration governance, particularly OFWA, national government agencies, workers organizations, employers, and civil society, to ensure an evidence-based and data-backed analysis report shall be released and made available to the stakeholders and the public.

Five (5) years from the creation of this Department, the Commission may recommend the reorganization, consolidation, or abolition of the Department should circumstances prove that there is no more need for its existence. The relevance and prudence of maintaining the Department shall be reviewed every five (5) years after the five (5)-year mandatory review period. Indicators shall include, but shall not be limited to, number of deaths of jobs created, transfer skills protection coverage, more job options for women and cultural minorities, and less proportion of OFWs in high-risk and precarious occupations.

The Commission shall include the secretaries of this Department, the DFA, the DOLE, the NEDA, and the DBM as members.

SEC. 28. *Implementing Rules and Regulations* - The Transition Committee shall promulgate the implementing rules and regulations within seventy-five (75) days after the effectivity of this Act.

SEC. 29. *Separability Clause* - Should any provision of this Act or part thereof be declared unconstitutional, the other provision or parts not affected thereby shall remain valid and effective.

SEC. 30. *Repealing Clause* - All other laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 31. *Effectivity* - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette and in at least two (2) newspapers of general circulation.

Approved:

LORD ALLAN JAY Q. VELASCO VICENTE C. SOTTO III
Speaker of the House President of the Senate
of Representatives

This Act was passed by the Senate of the Philippines as Senate Bill No. 223-09 December 14, 2021, and adopted by the House of Representatives as an amendment to House Bill No. 5838 on December 15, 2021.

MARY GRACE DELA MEDALLA MYRA MARIE D. VILLARICA
Secretary of Labor Secretary of the Senate
of Representatives

Approved: DEC 06 2021

RODRIGO ROA DUTERTE
President of the Philippines

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