



Philippine
Overseas
Employment
Administration

Republic of the Philippines
Department of Labor and Employment
BFO Building, Ortigas Avenue cor. EDSA, Mandaluyong City 1501
Website: www.poea.gov.ph E-mail: info@poea.gov.ph
Hotlines: 722-1144, 722-1155



25
ADVISORY NO. _____
Series of 2016



**AUSTRALIA'S MIGRATION AMENDMENT (CHARGING FOR
A MIGRATION OUTCOME) ACT OF 2015**

The Department of Foreign Affairs reported on the implementation by the government of Australia of the *Migration Amendment (Charging for a Migration Outcome) Act 2015*. The said legislation aims to address workers' exploitation and penalize businesses that exploit workers.

The said amendment, which falls under Australia's Migration Act of 1958 and took effect last 14 December 2015 stipulates the following:

1. Four (4) new offenses (Payment for a Migration Outcome)
 - Prohibition on asking for or receiving benefit in return for the occurrence of a sponsorship related event (Subdiv. 245AR);
 - Prohibition on offering to provide or providing a benefit in return for the occurrence of a sponsorship related event (Subdiv. 245AS);
 - Criminal liability of executive officers of bodies corporate (Subdiv. 245AT); and
 - Civil liability of executive officers of bodies corporate (Subdiv. 245AU)
2. Definition of "benefit" (Subdiv. 245AQ) includes:
 - A payment or other valuable consideration
 - A deduction of an amount
 - Any kind of real or personal property
 - An advantage
 - A Service
 - A gift
3. As provided by Australia's Department of Immigration and Border Protection (DIBP), the definition of "benefit" may also include:
 - One-off lump sum payment
 - On-going regular payments
 - Underpayment of a visa holder's wages and salary
 - Repayment of a visa holder's wage and salary
 - Unpaid work
 - Being paid as hourly wage which is less than the guaranteed annual earning; and
 - Payments for goods and services which are above market value

CONTROLLED AND DISSEMINATED
BY CRD ON JUN 20 2016

4. Definition of a sponsorship-related event generally involves a sponsorship arrangement between a sponsor and a visa holder and may include the following:

- Nominating to sponsor a person
- Becoming an approved sponsor
- Threatening to dismiss someone, affecting the person's visa status
- Withdrawing a nomination application

5. The examples of paying for a visa sponsorship include:

- Large lump sum or payment to sponsor
- Visa holders working excessive hours for no pay or less pay
- Visa holder dependents working for free or less
- Charging consistently monthly or weekly payments

Generally, the amendments make it unlawful for a sponsor to be paid by visa applicants for a migration outcome and is reinforced by a tough penalty and conviction network.

Prospective applicants should be cautious of any job offer that requires upfront payment or paying back of the salary to the employer. Cases of suspected payment of visa sponsorship must be reported to Australia's Department of Immigration and Border Protection hotline nos. 1800-009-623 (within Australia) and +612-6264-1325 (outside Australia)

For the information and guidance of all concerned.


HANS LEO J. CACDAC
Administrator

23 June 2016
Source: DFA-OUMWA

