

Interim Guidelines for the Overseas Employment
Program, 2018

Department of Employment and Human Resources
Ministry of Labour and Human Resources
Royal Government of Bhutan

Interim Guidelines for Overseas Employment Program

Title and Commencement

1. This Guideline shall be called the Interim Guideline for the Direct Facilitation of the Overseas Employment Program and hereafter referred to as the Interim Guidelines.
2. This Guideline shall come into effective from 8 May 2018.

Objective

3. This Interim Guideline is being adopted as a short term measure to put in place minimum provisions to ensure the effective facilitation of the overseas employment program by the Department of Employment and Human Resources (DoEHR), Ministry of Labour and Human Resources (MoLHR) in direct collaboration with foreign principals, until such time that a comprehensive guideline is approved.

Registration of Overseas Company

4. Any foreign principal interested in collaborating directly with the DoEHR to recruit Bhutanese Overseas Workers (BOW) shall submit a proposal with the following documents notarised by the government notary of the country where the company is located as per the requirements under this Interim Guideline:
 - 4.1. Valid business license, registration certificate or equivalent document;
 - 4.2. Human resource regulations of the company;
 - 4.3. Master employment contract which includes information on the following:
 - 4.3.1. working hours;
 - 4.3.2. guaranteed minimum wages for regular work which shall not be lower than the prescribed minimum wages in the host country or not lower than the minimum wage standard as per bi-lateral agreement or international convention, if applicable, or not lower than the minimum wage in the country;
 - 4.3.3. guaranteed minimum wage for over time work; and
 - 4.3.4. other benefits including but limited to free transportation to and from worksite from place of residence or equivalent benefits.
5. Where the language is other than English, the foreign principal shall be required to submit all the documents which have been translated into English by an authorised translation agent and notarised by the government notary of the country of location.
6. The DoEHR shall review the proposal to ensure authenticity of the offer and establish the capability of the foreign principal to hire BOWs at the applicable rates and at desirable working conditions that are in compliance with the minimum standards as prescribed by the LEA 2007 and with the labour laws of the host country. The DoEHR shall seek the support of the Ministry of Foreign Affairs (MFA) where necessary.
7. The DoEHR shall inform the foreign principal of its decision within one month of the receipt of the proposal.
8. On approval of the proposal, the DoEHR shall register the foreign principal as an approved partner of the MoLHR and process for contract agreement of collaboration between the DoEHR and the overseas company.

Advertisement for vacancies

9. All foreign principals registered as partners of the MoLHR shall be required to submit job vacancies with the following details to the DoEHR for approval:

- 9.1. Job positions with detailed terms of reference;
 - 9.2. Minimum qualification and skills requirement;
 - 9.3. Place of work and prospective worksite;
 - 9.4. Remuneration and other benefits; and
 - 9.5. Number of positions available.
10. The DoEHR shall within 3 working days advertise the vacancies on the job portal providing details of the location and other information as is deemed necessary.
 11. The DoEHR shall shortlist the applicants and forward the list of shortlisted applicants to the foreign principal.
 12. The recruitment and selection shall be carried out as per the Recruitment and Selection Regulation 2012 (RSR).

Skills Test and Medical Examination for Overseas Employment

13. Skills tests and medical examination requirements for applicants shall be in line with Chapter 5 of the Regulations on Bhutanese Overseas Agents 2016.

Documentation of BOWs

14. The foreign principal shall submit the list of workers who have been recruited for employment.
15. The foreign principal shall be responsible to process for the travel of the workers recruited and send the travel documents to the DoEHR atleast 7 working days prior to the departure date.
16. The foreign principal shall deploy the recruited workers within sixty days from the date of issuance of letter of acceptance to the worker.
17. If the deployment is delayed beyond the sixty days, the foreign principal shall inform the DoEHR and the reasons thereof and apply to the DoEHR for cancellation of the worker's documents.
18. If the delay in deployment is for more than thirty days beyond the initial period of deployment of sixty days, and is for fault on the part of the foreign principal, the foreign principal shall pay compensation to the worker awaiting deployment for the period until the worker is deployed.
19. The compensation shall be calculated at the guaranteed minimum wage specified in the master employment contract.
20. If the delay exceeds the thirty days, the foreign principal may apply to the DoEHR for the cancellation of the worker's processed documents.
21. If the delay in deployment is for reason on the part of the worker, the foreign principal shall not be held liable to pay compensation to the worker and may apply to the DoEHR for the cancellation of the worker's processed documents.
22. If the deployment of the worker does not take place due to fault of the foreign principal, the foreign principal shall be liable to pay compensation to the workers for the time exceeding the initial deployment period of sixty days. However, if failure to deploy is for fault of the worker, the workers shall be held liable to pay the foreign principal any related to the deployment, supported by official receipts.

Pre-departure requirements

23. The DoEHR shall conduct pre-departure briefings for all workers recruited by the foreign principal.
24. All workers recruited by the foreign principal shall be required to undergo the pre-departure briefing.
25. The DoEHR shall handover all documents including travel documents to the workers during the pre-departure briefing.

26. The foreign principal shall be required to inform the DoEHR atleast 7 working days prior to the departure date of the workers.

Employment Standards

27. The minimum employment standards shall be based on Chapter 10 of the Regulation on Bhutanese Overseas Agents 2016 (RBOA).

28. Where, under Chapter 10 of the RBOA, the responsibility lies with the Bhutanese Overseas Employment Agents (BOEAs), the DoEHR shall fulfil the stipulated responsibilities.

Legal Assistance or Enforcement

29. The DoEHR shall receive written complaints for assistance from Bhutanese overseas workers (BOWs) on infringement of their rights including but not limited to any form of exploitation in the workplace.

30. Procedure for filing of complaint shall be as per Regulations 12.1 and 12.2 under Chapter 11 of the RBOEA.

31. The DoEHR shall review the complaint received, and where it is determined that the complaint has basis, the DoEHR shall with the approval of the Chief Labour Administrator (CLA) coordinate with the relevant authorities to resolve the issue, which shall include the MFA.

32. The DoEHR shall maintain case reports on individual complaints, which shall be updated until the case has been resolved and closed.

33. Reports of each case shall be submitted to the CLA.

34. The DoEHR shall provide free legal assistance to any BOWs whose rights have been infringed upon by the foreign principal.

35. The legal assistance shall include but shall not be limited to legal advice, assistance in the preparation of complaints and supporting documents, institution of any criminal action and wherever necessary, provide counselling.

Disciplinary Action Against Bhutanese Overseas Workers

36. Each BOW shall be held accountable for his/her conduct while working overseas and shall be liable for disciplinary action as per Chapters 16 and 17 of the RBOEA.

37. Any appeal made by the BOW or on behalf of the BOW shall be barred if not commenced or filed with the DoEHR within one year after such cause of action occurred.

Welfare Services

38. The DoEHR shall ensure the welfare of BOWs in line with Chapter 19 of the RBOEA.

39. Where, under Chapter 19, the responsibility lies with the BOEA, the foreign principal shall be liable to fulfil the stipulated responsibilities.

Definition of Terms

For the purpose of this Guideline, the following terms are defined as follows:

1. Chief Labour Administrator – shall refer to the Secretary of the Ministry of Labour and Human Resources
2. Foreign principal – shall refer to any overseas company who is registered with the DoEHR as a direct partner to recruit Bhutanese workers.
3. Master Employment Contract – shall refer to the model employment agreement submitted by the foreign principal for verification and approval of the DoEHR, which contains the terms and condition of employment of workers hired by such foreign principal.

4. Workers – shall refer to the Bhutanese youth recruited by the foreign principal.