



Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

JUN 07 2010

DEPARTMENT CIRCULAR NO. - 41

**CONSOLIDATED RULES AND REGULATIONS GOVERNING THE
ISSUANCE AND IMPLEMENTATION OF HOLD DEPARTURE ORDERS,
WATCHLIST ORDERS, AND ALLOW DEPARTURE ORDERS**

WHEREAS, while several Supreme Court circulars, issued through the Office of the Court Administrator, clearly state that "Hold Departure Order shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts," said circulars are, however, silent with respect to cases falling within the jurisdiction of courts below the RTC as well as those pending determination by government prosecution offices;

WHEREAS, apart from the courts, the Secretary of Justice as head of the principal law agency of the government mandated to, *inter alia*, investigate the commission of crimes, prosecute offenders, and provide immigration regulatory services, is in the best position to institute measures to prevent any miscarriage of justice, without, however, sacrificing the individual's right to travel;

WHEREAS, the Department of Justice, therefore, issued Circular No. 17 on March 19, 1998 and Circular No. 18 on April 23, 2007 to respectively govern the issuance and implementation of Hold Departure Orders (HDOs), Watchlist Orders (WLOs), and Allow Departure Orders (ADOs), among others;

WHEREAS, in view of some concerns that emerged both in the issuance and in the implementation of said Orders, there is a need to review, revise and consolidate the two department issuances to ensure their effective implementation.

NOW, THEREFORE, pursuant to the provisions of existing laws, the following consolidated rules are hereby adopted:

Section 1. Hold Departure Order. - The Secretary of Justice may issue an HDO, under any of the following instances:

- (a) Against the accused, irrespective of nationality, in criminal cases falling within the jurisdiction of courts below the Regional Trial Courts (RTCs).

If the case against the accused is pending trial, the application under oath of an interested party must be supported by (a) a certified true copy of the complaint or information; and (b) a Certification from the Clerk of Court concerned that criminal case is still pending.

If the accused has jumped bail or has become a fugitive from justice, the application under oath of an interested party must be supported by (a) a certified true copy of the complaint or information; (b) a certified true copy of the warrant/order of arrest; and (c) a Certification from the Clerk of Court concerned that the warrant/order of arrest was returned unserved by the peace officer to whom the same was delivered for service.

- (b) Against the alien whose presence is required either as a defendant, respondent, or witness in a civil or labor case pending litigation, or any case before a quasi-judicial or an administrative agency of the government.

The application under oath of an interested party must be supported by (a) a certified true copy of the subpoena or summons issued against the alien; and (b) a certified true copy complaint in civil, labor or administrative case where the presence of the alien is required.

- (c) The Secretary of Justice may likewise issue an HDO against any person, either *motu proprio*, or upon the request by the Head of a Department of the Government; the head of a constitutional body or commission; the Chief Justice of the Supreme Court for the Judiciary; the Senate President or the House Speaker for the Legislature; when the adverse party is the Government or any of its agencies or instrumentalities, or in the interest of national security, public safety or public health.

Section 2. Watchlist Order. - The Secretary of Justice may issue a WLO, under any of the following instances:

- (a) Against the accused, irrespective of nationality, in criminal cases pending trial before the Regional Trial Court or before courts below the Regional Trial Courts:

The application under oath of an interested party must be supported by (a) certified true copy of the Information filed with the court; (b) a certified true copy of the Prosecutor's Resolution; and (c) a Certification from the Clerk of Court concerned that criminal case is still pending.

- (b) Against the respondent, irrespective of nationality, in criminal cases pending preliminary investigation, petition for review, or motion for reconsideration before the Department of Justice or any of its provincial or city prosecution offices.

The application under oath of an interested party must be supported by (a) certified true copy of the complaint filed; and (b) a Certification from the appropriate prosecution office concerned that the case is pending preliminary investigation, petition for review, or motion for reconsideration, as the case may be.

- (c) The Secretary of Justice may likewise issue a WLO against any person, either *motu proprio*, or upon the request of any government agency, including commissions, task forces or similar entities created by the Office of the President, pursuant to the "Anti-Trafficking in Persons Act of 2003" (R.A. No. 9208) and/or in connection with any investigation being conducted by it, or in the interest of national security, public safety or public health.

Section 3. Completeness of Information.- To ensure the proper identification of the subject of the HDO/ WLO and to avoid inconvenience to any innocent party, all applications or requests, including the HDO/WLO to be issued, shall contain the following information of the subject:

- a. Complete name, i.e., given name, middle name or initial and surname;
- b. Alias/es, if any;
- c. Date and place of birth;
- d. Place of last residence;
- e. Passport details, if available;
- f. Recent photograph, if available;
- g. Complete title and docket number of the case; and
- h. Specific nature of the case.

Section 4. HDO/WLO Validity.- The validity period of any HDO/WLO issued pursuant to this Circular shall be reckoned from the date of its issuance. The HDO shall valid for five (5) years unless sooner terminated. On the other hand, the WLO shall be valid for sixty (60) days unless sooner terminated or extended, for a non-extendible period of not more than sixty (60) days.

Section 5. HDO/WLO Lifting or Cancellation. - In the lifting or cancellation of the HDO/ WLO issued pursuant to this Circular, the following rules shall apply:

(a) The HDO may be lifted or cancelled under any of the following grounds:

1. When the validity period of the HDO as provided for in the preceding section has already expired;
2. When the accused subject of the HDO has been allowed to leave the country during the pendency of the case, or has been acquitted of the charge, or the case in which the warrant/order of arrest was issued has been dismissed or the warrant/order of arrest has been recalled;
3. When the civil or labor case or case before an administrative agency of the government wherein the presence of the alien subject of the HDO/WLO has been dismissed by the court or by appropriate government agency, or the alien has been discharged as a witness therein, or the alien has been allowed to leave the country.

(b) The WLO may be lifted or cancelled under any of the following grounds:

1. When the validity period of the WLO as provided for in the preceding section has already expired;
2. When the accused subject of the WLO has been allowed by the court to leave the country during the pendency of the case, or has been acquitted of the charge;
3. When the preliminary investigation is terminated, or when the petition for review, or motion for reconsideration has been denied and/or dismissed.

(c) All applications for lifting/cancellation of HDOs/WLOs must be under oath and accompanied by certified true copies of the documentary evidence in support of the ground relied upon.

(d) Any HDO/WLO issued by the Secretary of Justice either *motu proprio* or upon request of government functionaries/offices mentioned in Sections 1 and 2, when the adverse party is the Government or any of its agencies or instrumentalities, or in the interest of national security, public safety or public health, may be lifted or recalled anytime if the application is favorably indorsed by the government functionaries/offices who requested the issuance of the aforesaid HDO/WLO.

Section 6. Implementation of HDO/WLO/ADO Issuance and Lifting/Cancellation.- All Orders issued pursuant to this Circular shall be immediately transmitted to the Commissioner of Immigration for implementation, copy furnished the person/s subject thereof, to give the latter adequate opportunity to contest the Order or request consideration thereof.

Section 7. Allow Departure Order (ADO). - Any person subject of HOO/WLO issued pursuant to this Circular who intends, for some exceptional reasons, to leave the country may, upon application under oath with the Secretary of Justice, be issued an ADO.

The ADO may be issued upon submission of the following requirements:

- a. Affidavit stating clearly the purpose, inclusive period of the intended travel, and containing an undertaking to immediately report to the DOJ upon return; and
- b. Authority to travel or travel clearance from the court or appropriate government office where the case upon which the issued HOO/WLO was based is pending, or from the investigating prosecutor in charge of the subject case.

Section 8. Issuance of Clearance/ Certification of Not the Same Person.- Any person who is prevented from leaving the country because his/her name appears to be the same as the one that appears in the HDO/WLO issued pursuant to this Circular may, upon application under oath, be issued a Certification to the effect that said person is not the same person whose name appears in the issued HDO/WLO.

The Certification may be issued upon submission of the following requirements:

- a. Affidavit of Denial;
- b. Photocopy of the page of the passport bearing the personal details;
- c. Latest clearance from the National Bureau of Investigation (NBI); and
- d. Clearance from the court or appropriate government agency, whenever applicable.

Section 9. Processing Fees. - Pursuant to the provisions of Republic Act No. 9279 and its Implementing Rules and Regulations, there shall be collected and paid to the Cashier's Office of this Department the following

fees to cover the administrative costs for services rendered by the Legal Staff, to wit:

Issuance/Lifting or Cancellation/Extension of HDO/WLO	- P2,500.00
Issuance of Allow Departure Order	- P2,500.00
Issuance of Clearance/Certification of Not the Same Person	- P 500.00

Section 10. Repealing Clause.- All rules and regulations, particularly those contained in Circular No. 17 dated March 19, 1998 and Circular No. 18 dated April 23, 2007, as well as all instructions, issuances or orders or parts thereof inconsistent with the Rules provided herein, are hereby superseded and/or repealed accordingly.

Section 11. Effectivity.- These rules shall take effect immediately.

May 25, 2010.



ALBERTO C. AGRA
Acting Secretary



Department of Justice
SACA-10-0007486