

PRIMER

on the

OVERSEAS ABSENTEE VOTING ACT of 2003 (REPUBLIC ACT NO. 9189)



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

1. What is the Overseas Absentee Voting Act of 2003?

Republic Act No. 9189, also known as “The Overseas Absentee Voting Act of 2003”, is the law that ensures equal opportunity to all qualified citizens of the Philippines abroad in the exercise of their right to participate in the election of President, Vice-President, Senators and Party-List Representatives.

2. When is the first election wherein the Overseas Absentee Voting Act will be implemented?

The Overseas Absentee Voting Act will be first implemented in the May 10, 2004 national elections.

3. Who are qualified to participate under the Overseas Absentee Voting Act?

All Filipino citizens, not otherwise disqualified by law, at least eighteen (18) years of age on the day of the election, and who are registered overseas absentee voters with approved application to vote *in absentia*, may vote for President, Vice-President, Senators and Party-List Representatives.

4. Who are disqualified from registering as overseas absentee voters?

The following are disqualified from registering as overseas absentee voters:

- a. Those who have lost their Philippine citizenship in accordance with Philippine laws;
- b. Those who have expressly renounced their Philippine citizenship and who have pledged allegiance to a foreign country;

- c. Those who have been convicted by final judgment of a court or tribunal of an offense punishable by imprisonment of not less than one (1) year, unless such disability has been removed by plenary pardon or amnesty;
- d. Those who have been found guilty by final judgment of Disloyalty as defined under Article 137 of the Revised Penal Code, unless such disability has been removed by plenary pardon or amnesty;
- e. An immigrant or a permanent resident who is recognized as such in the host country, unless he/she executes upon filing of an application for registration as overseas absentee voter an affidavit declaring that: (i) he/she shall resume actual physical permanent residence in the Philippines not later than three (3) years from approval of his/her registration, and (ii) he/she has not applied for citizenship in another country;
- f. Any citizen of the Philippines abroad previously declared insane or incompetent by competent authority in the Philippines or abroad, as verified by the Philippine embassy, consulate or foreign service establishment concerned, unless such competent authority subsequently certifies that such person is no longer insane or incompetent.

However, those disqualified under paragraphs (c) and (d) hereof who have not been granted plenary pardon or amnesty shall automatically acquire or reacquire the right to vote as an overseas absentee voter upon the expiration of five (5) years after service of sentence.

5. How may a Filipino citizen become a registered overseas absentee voter?

Filipino citizens abroad or Filipino citizens in the Philippines who will be abroad on election day may become registered overseas absentee voters by filing an application for registration or certification as overseas absentee voters.

6. Is a registered overseas absentee voter automatically entitled to vote?

No, a registered overseas absentee voter must have an approved application to vote *in absentia* to be entitled to vote for President, Vice-President, Senators and Party-List Representatives.

7. What does the application for registration or certification as overseas absentee voter and application to vote in absentia contain?

The application for registration or certification as overseas absentee voter and application to vote *in absentia* are contained in one form, consisting of five parts:

Part 1 - The Application for Registration to be accomplished by ALL applicants.

Part 2 - The Application for Certification to be accomplished ONLY by applicants who are already registered as voters under Republic Act No. 8189, also known as “The Voter’s Registration Act of 1996”. (Those who registered before the June 1997 general registration of voters and those who registered before the December 1999 general registration of voters in the Autonomous Region in Muslim Mindanao [ARMM], except Cotabato City and Isabela City of Basilan, are not considered registered voters under RA No. 8189)

Part 3 - The Oath to be accomplished ONLY by applicants who are immigrants or permanent residents abroad.

Part 4 - The Oath to be accomplished by ALL applicants.

Part 5 - The Application to Vote *In Absentia* to be accomplished by ALL applicants.

8. Where may application forms be obtained?

Application forms may be obtained from: (i) the Philippine embassies, consulates and other foreign service establishments, (ii) the Committee on Overseas Absentee Voting at the Central Office of the Commission on Elections, Intramuros, Manila, and (iii) the Office of the Election Officer in every city/municipality/district. They may also be downloaded from the websites of the Commission on Elections and the Department of Foreign Affairs (www.comelec.gov.ph and www.dfa.gov.ph., respectively)

9. When shall applications be filed?

For purposes of the May 10, 2004 elections, you may file your applications beginning August 1, 2003 up to September 30, 2003.

10. Where shall an application be filed?

If you are abroad during the period for the filing of applications -

File the application with the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where you temporarily reside.

In case of seafarers, file the application with the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where your vessel is docked during the period for the filing of applications.

If you are in the Philippines during the period for the filing of applications but will be abroad on the day of the election -

File the application with the Election Registration Board of the city/municipality/district where you are domiciled prior to your departure from the Philippines.

In case of seafarers, you have the option to file the application either with (i) the Election Registration Board of the city/municipality/district where you are domiciled prior to your departure from the Philippines or (ii) the Committee on Overseas Absentee Voting at the Central Office of the Commission on Elections, Intramuros, Manila.

11. What is the procedure for the filing of an application?

If you are abroad –

a. Personally appear before the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where you temporarily reside;

b. Present your valid Philippine passport;

c. Accomplish the prescribed application form; and

d. Submit the accomplished application form with a photocopy of your passport.

If you are a seafarer:

a. Personally appear before the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where your vessel is docked during the period for the filing of applications;

b. Present your valid Philippine passport;

c. Accomplish the prescribed form; and

d. Submit the accomplished form together with (i) a photocopy of your passport and (ii) a photocopy of your Seaman's Book or any other document that will prove that you are a seafarer.

If you are in the Philippines during the period for the filing of applications but will be abroad on the day of the election:

a. Personally appear before the Election Officer of the city/municipality/district where you are domiciled prior to your departure from the Philippines;

b. Present your valid Philippine passport;

c. Accomplish the prescribed application form; and

d. Submit the accomplished form together with a photocopy of your passport.

If you are a seafarer:

a. Personally appear at your option either (i) before the Election Officer of the city/municipality where you are domiciled prior to your departure from the Philippines or (ii) before the Committee on Overseas Absentee Voting at the Central Office of the Commission on Elections, Intramuros, Manila.

b. Present your valid Philippine passport;

c. Accomplish the prescribed application form; and

d. Submit the accomplished form together with (i) a photocopy of your passport and (ii) a photocopy of your Seaman's Book or any other document that will prove that you are a seafarer.

12. What documents will you present to the representative of the Commission in the embassy, consulate and other foreign service establishment –

(a) In case your valid passport cannot be presented for reasons other than its loss or temporary unavailability?

You may present the following substitute documents:

a. Your expired passport;

b. Duly authenticated birth certificate from the National Statistics Office;

c. Documentary proof of your status in the host country; and

d. Other documents that may sufficiently establish your citizenship, identity and immigration status in the host country.

(b) In case of loss or temporary unavailability of your valid passport?

You must submit a duly notarized and authenticated affidavit describing the lost or unavailable passport and the circumstances of the loss or reasons for its unavailability, with an attached photocopy of the passport's relevant pages, if available.

The substitute documents mentioned above may also be required by the representative of the Commission to sufficiently establish your citizenship, identity and immigration status in the host country.

13. How will you know if your application has been approved or disapproved?

If your application has been approved:

- a. You or your authorized representative will receive a Certificate of Registration and your name shall be included in the City/Municipal/District Registry of Absentee Voters and in the National Registry of Absentee Voters; and
- b. Your name shall be posted on the day following the approval of your application in a conspicuous place in the premises of the city or municipal and barangay building of your residence as stated in your application form.

If your application has been disapproved:

- a. You or your authorized representative will receive a Notice of Disapproval stating the reason(s) for the disapproval; and
- b. Your name shall be posted on the day following the disapproval of your application in a conspicuous place in the premises of the city or municipal and barangay building of your residence as stated in your application form.

14. What steps may you take in case your application for registration/certification is disapproved?

You or your authorized representative may, within five (5) days from receipt of the notice of disapproval, file a verified petition for inclusion of your name in the Municipal/City/District Registry of Absentee Voters with the proper Municipal or Metropolitan Trial Court.

15. What steps may you take in case your name has been omitted, or your name has been misspelled or erroneously written in the National Registry of Absentee Voters?

For purposes of the May 10, 2004 elections, you may file with the Committee on Overseas Absentee Voting at the Central Office of the Commission on Elections, Intramuros, Manila, an application for reinstatement or correction of your name not later than December 12, 2003.

16. How will you know if your application to vote in absentia has been approved or disapproved?

If your application to vote in absentia has been approved, you or your authorized representative shall receive a copy of your approved Voter Registration Record, which

shall be in the form of an Overseas Absentee Voter Identification Card.

If your application has been disapproved, you or your authorized representative will receive a Notice of Disapproval stating the reason(s) for the disapproval.

17. What steps may you take in case your application to vote in absentia is disapproved?

You may file a motion for reconsideration with the Committee on Absentee Voting at the Central Office of the Commission on Elections, Intramuros, Manila, within ten (10) days from receipt of the notice of disapproval.

18. What is the period for casting of votes for land-based overseas absentee voters?

Land-based overseas absentee voters with approved application to vote *in absentia* shall cast their votes at any time within thirty (30) days before the day of the election, starting on April 11, 2004, local time at the host country, up to 3:00 o'clock in the afternoon of May 10, 2004, Philippine time.

19. What is the period for casting of votes for overseas absentee voters who are seafarers?

Overseas absentee voters who are seafarers with approved application to vote *in absentia* shall cast their votes at any time within sixty (60) days before the day of election, starting on March 12, 2004, local time at the host country, up to 3:00 o'clock in the afternoon of May 10, 2004, Philippine time.

20. How are votes cast?

Qualified overseas absentee voters shall cast their votes personally only in the designated voting area within the premises of the Philippine embassy, consulate and other foreign service establishment that has jurisdiction over the country where they temporarily reside, or at any polling place designated and accredited by the Commission therein.

Votes may also be cast by mail in countries where the Commission has authorized the same.

21. Who will conduct the voting?

A Special Board of Election Inspectors (SBEI) composed of: (i) a Chairman, (ii) a Poll Clerk and (iii) a Member-Secretary shall conduct the voting.

The Ambassador or Consul-General or any career public officer posted abroad designated by the Commission shall act as the Chairman. In the absence of any government officer, the two (2) other members shall be citizens of the Philippines who are qualified to vote under the Overseas Absentee Voting Act of 2003.

22. Who can vote?

Only those whose names are included in the Certified List of Overseas Absentee Voters can cast their votes.

A voter whose name does not appear in the Certified List of Overseas Absentee Voters shall not be allowed to vote.

23. What is the procedure for personal casting of votes?

You shall:

- a. Approach the Poll Clerk of the SBEI;
- b. Give your name and address together with other data concerning your person;
- c. Present your Overseas Absentee Voter Identification Card (OAV ID). In case of loss or unavailability of your OAV ID, you may present your valid passport or any other identification card issued by the host country that can establish your identity;
- d. Obtain from the Poll Clerk a Ballot Issuance Stub;
- e. Present the Ballot Issuance Stub to the Chairman;
- f. Affix your signature opposite your name in the List of Overseas Absentee Voters with Voting Record;
- g. Obtain from the Chairman the official ballot which shall be placed inside a ballot secrecy folder;
- h. Personally accomplish the ballot in secret, using the appropriate marking or writing device, and without leaving the designated voting area;
- i. Place the accomplished ballot inside the ballot secrecy folder in the same manner as you received it;
- j. Exhibit the ballot coupon to the Member-Secretary of the SBEI, who shall verify its serial number against the number previously entered in the List of Overseas Absentee Voters with Voting Records;
- k. Affix your right thumbmark in the corresponding space in the ballot coupon

and opposite your name in the List of Overseas Absentee Voters with Voting Record;

- l. Obtain from the Member-Secretary an envelope for your ballot;
- m. Place the ballot inside the envelope;
- n. Seal the envelope;
- o. Deposit the envelope inside the ballot box compartment for valid ballots; and
- p. Immediately depart.

24. What are the prohibitions on personal voting?

You shall not:

- a. Be accompanied by anybody in accomplishing your ballot, unless you are an illiterate or disabled voter;
- b. Speak with anyone while accomplishing your ballot;
- c. Intentionally tear, deface, or erase any printing on the ballot or put thereon any distinguishing mark;
- d. Use carbon paper, paraffin paper or other means for making a copy of the ballot, or make use of any other means to identify your vote;
- e. Prepare the ballot without the use of a ballot secrecy folder, or exhibit its contents to any person; and
- f. Bring the ballot outside the designated voting area within the premises of the embassy, consulate or foreign service establishment.

25. Can you be challenged from voting?

Yes. You may be challenged on the basis of:

- a. Being an illegal voter; or
- b. Your having committed illegal acts.

26. What are the grounds to challenge a voter for being an illegal voter?

Any voter or watcher may challenge a voter for:

- a. Not being registered as an overseas absentee voter;
- b. Using the name of another; or
- c. Suffering from existing disqualification.

27. What are the grounds to challenge a voter for having committed illegal acts?

Any voter or watcher may challenge any voter on the ground that the challenged person committed the following illegal acts:

- a. Received or expects to receive money or anything of value as consideration for his/her vote, has paid, offered or promised to pay, has contributed, offered or promised to contribute money or anything of value as consideration for the vote of another;
- b. Made or received a promise to influence the giving or withholding of any such vote; or
- c. Made a bet or is interested directly or indirectly in a bet, which depends upon the results of the election.

28. What must you do in case you are challenged?

If you are challenged for being an illegal voter, present satisfactory proof of your registration, identity or qualification.

If you are challenged for having committed an illegal act, take an oath before the SBEI that you have not committed such act. Upon taking such oath, the challenge shall be dismissed and you shall be allowed to vote. In case you refuse to take such oath, the challenge shall be sustained and you shall not be allowed to vote.

29. Can you vote as an illiterate voter or a voter who cannot accomplish the ballot by reason of physical disability?

Yes. However, the fact of your illiteracy or physical disability must be so indicated in your application for registration/certification and to vote *in absentia*.

30. Who may assist you in casting your vote as an illiterate or disabled voter?

You may be assisted by a relative within the fourth civil degree of consanguinity or affinity, or, if you have none, by any person of your confidence who belongs to your household, or by any member of the SBEI.

31. What will happen if you spoil your ballot or render it in such a way that it can no longer be legally used?

You shall not be issued another ballot and you are required to surrender the ballot to the Chairman.

32. How will ballots be sent to you in case you reside in a country where voting by mail is allowed?

The embassy, consulate or foreign service establishment concerned shall send to you the ballot inside a special envelope. In addition to the ballot, the special envelope shall contain one inner and one outer envelope, voting instructions, paper seals and certified list of candidates.

33. How will you cast your vote if you reside in a country where voting by mail is allowed?

Upon receipt of the special envelope, you shall:

- a. Accomplish the ballot;
- b. Affix your right thumbmark on the ballot coupon;
- c. Detach the coupon from the ballot;
- d. Place the detached coupon inside the envelope marked "Outer Envelope";
- e. Place the accomplished ballot inside the envelope marked "Inner Envelope";
- f. Seal the inner envelope with paper seal provided for the purpose;
- g. Place the sealed inner envelope containing the ballot inside the outer envelope containing the ballot coupon in such a manner that the ballot shall not be folded or crumpled;
- h. Seal the outer envelope with paper seal provided for the purpose;

- i. Affix your signature in the proper space provided in the outer envelope; and
- j. Mail the sealed envelope to the embassy, consulate or foreign service establishment that sent you the ballot.

34. What will happen if your ballot is not contained in the special envelope or the envelope is not received before the close of voting on the day of elections?

The ballot will not be included in the counting of votes.

35. What is the importance of affixing your signature in the outer envelope?

Before counting, your signature in the outer envelope shall be compared with that appearing in your approved voter registration record. If the signatures are identical, the envelope shall be opened and the ballot shall be counted. Otherwise, the envelope shall not be opened and the ballot contained therein shall not be counted.

36. Where will the counting of votes take place?

The counting of votes shall be conducted on site in the country where the votes were actually cast and within the premises of the embassies, consulates and other foreign service establishments or in such other places as may be designated by the Commission.

37. How shall ballots be counted?

Ballots shall be counted publicly and uninterrupted in the counting centers designated by the Commission. Unless otherwise ordered by the Commission, the

SBEI shall not adjourn or postpone or delay the counting until it has been fully completed.

38. Will the results of the election be announced?

After the printing of election returns, the Chairman shall orally and publicly announce the total number of votes received by each candidate stating their corresponding offices, as well as the total number of votes received by a party, sectoral organization or coalition participating under the party-list system of representation.

39. What acts are prohibited?

In addition to the prohibited acts provided by law, it shall be unlawful:

- a. For any officer or employee of the Philippine government to influence or attempt to influence any person covered by the Overseas Absentee Voting Act to vote or not to vote, for a particular candidate;
- b. For any person to deprive any person of any rights secured under the Overseas Absentee Voting Act, or to give false information as to his/her name, address, or period of residence for the purpose of establishing his/her eligibility or ineligibility to register or vote under the Overseas Absentee Voting Act; or to conspire with another person for the purpose of encouraging the giving of false information in order to establish the eligibility or ineligibility of any individual to register or vote under the Overseas Absentee Voting Act; or to pay, or offer to pay, or to accept payment either for applications to vote *in absentia* or for voting;

- c. For any person to tamper with the ballot, the mail containing the ballots for overseas absentee voters, the election returns, including the destruction, mutilation and manipulation thereof;
- d. For any person to steal, destroy, conceal, mutilate or alter any record, document or paper as required for purposes of the Overseas Absentee Voting Act;
- e. For any deputized agent to refuse without justifiable ground, to serve or continue serving, or to comply with his/her sworn duties after acceptance of his/her appointment;
- f. For any public officer or employee who shall cause the preparation, printing, distribution of information materials, or post the same in websites without prior approval of the Commission;
- g. For any public officer or employee to cause the transfer, promotion, extension, recall of any member of the foreign service corps, including members of attached agencies, or otherwise cause the movement of any such member from his/her current post or position one (1) year before and three (3) months after the day of elections, without securing prior approval of the Commission;
- h. For any person who, after being deputized by the Commission to undertake activities in connection with the implementation of the Overseas Absentee Voting Act, shall campaign for or assist, in whatever manner, candidates in the election; or
- i. For any person who is not a citizen of the Philippines to participate, by word or

deed, directly or indirectly through qualified organizations/ associations, in any manner and at any stage of the Philippine political process abroad, including participation in the campaign and elections.

40. What are the penalties to be imposed on a person found guilty of committing a prohibited act?

Any person found guilty of committing any of the prohibited acts, except paragraph (c), shall be punished with imprisonment without probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage.

If the offender is an immigrant or permanent resident who did not resume residence in the Philippines as stipulated in his/her affidavit within three (3) years after the approval of his/her registration under the Overseas Absentee Voting Act and yet vote in the next succeeding elections, his/her name shall also be removed from the National Registry of Absentee Voters; he/she shall be permanently disqualified to vote *in absentia*; and his/her passport shall be stamped “not allowed to vote”.