

Republic of the Philippines  
 Department of Labor and Employment  
 REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD  
 Regional Board No. XIII  
 Butuan City

WAGE ORDER NO. RXIII-01  
 PROVIDING FOR NEW MINIMUM WAGE RATES IN CARAGA REGION

WHEREAS, The Regional Tripartite Wages and Productivity Board under Republic Act No. 6727 is mandated to review the prevailing minimum wage rates applicable in the region, provinces or industries therein;

WHEREAS, The Board motu proprio conducted public hearings/ consultations on May 4, May 5 and August 14, 1998 at Surigao City, Butuan City and Surigao del Sur respectively;

WHEREAS, The above consultations revealed the need to adjust the minimum wage rates in the region in a manner that will not impair the viability and global competitiveness of business organizations in the area;

WHEREAS, The Board used poverty threshold wage and inflation rates in the Caraga Region as factors in arriving at a the new minimum wage rates;

WHEREAS, The Board recognized the need to simplify the present wage structure in the region;

NOW THEREFORE, by virtue of the power and authority vested under Republic Act 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board-Caraga Region hereby issues Wage Order No. RXIII-01.

Section 1. COVERAGE. The wage rates prescribed under this Wage Order shall apply to covered workers in the private sector regardless of their position, designation or status and irrespective of the method by which their wages are paid.

Not covered by the provisions of this Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Section 2. INTEGRATION OF COLA INTO THE BASIC WAGE. The existing Cost of Living Allowance (COLA) granted under WO No. RX-05-A and RTWPB XI-06 shall be integrated into the basic wage of covered workers upon the effectivity of this Wage Order.

Only qualified recipients of the COLA under WO No. RX-05-A and RTWPBXI-06 (Surigao del Sur) are entitled to the integration.

Section 3. SIMPLIFICATION OF WAGE STRUCTURE. In order to simplify the wage structure under WO No RX-05-A and RTWPBXI-06 (Surigao del Sur), a reduction in the number of industries and wage categories as shown in Section 4 hereof.

Section 4. NEW MINIMUM WAGE RATES. Upon effectivity of this Order, the daily minimum wage rates applicable to workers and employees in the private sector in the Caraga Region shall be as follows:

|                                 | Butuan City | Surigao City | Agusan del Norte | Surigao del Norte/<br>Agusan del Sur | Surigao del Sur |
|---------------------------------|-------------|--------------|------------------|--------------------------------------|-----------------|
| AGRICULTURE                     |             |              |                  |                                      |                 |
| Plantation                      | 136.00      | 134.00       | 133.00           | 131.00                               | 130.00          |
| Non-plantation                  | 116.00      | 114.00       | 113.00           | 111.00                               | 110.00          |
| NON AGRICULTURE *               | 146.00      | 144.00       | 146.00           | 144.00                               | 140.00          |
| RETAIL & SERVICE ESTABLISHMENTS |             |              |                  |                                      |                 |
| Employing 10 workers or less    | 116.00      | 114.00       | 113.00           | 111.00                               | 110.00          |
| Employing more than 10 workers  | 146.00      | 144.00       | 146.00           | 144.00                               | 142.00          |

\* Includes cottage/handicraft, private hospitals and retail/ service establishments with more than 10 employees.

Section 5. BASIS OF PAYING MINIMUM WAGE. The statutory minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 6. APPLICATION TO COTTAGE AND HANDICRAFT INDUSTRIES. Cottage and handicraft industries are hereby classified under non- agriculture sector. As such, they are required to comply with this Wage Order on a staggered basis within a period of one year from its effectivity in the following manner:

- a. Upon effectivity of WO No. R-XIII- 01 - Forty (40) percent of the total increase after COLA integration.
- b. Effective March 1, 1999 – Thirty (30) percent of the total increase after COLA integration.
- c. Effective August 1, 1999 – Thirty (30) percent of the total increase after COLA integration.

Section 7. APPLICATION TO INDUSTRIES WHOSE REVENUES ARE REGULATED BY LAW. Industries whose revenues are regulated by law (such as transportations, utilities, etc.) are required to comply with this Wage Order immediately upon approval of adjustment in their rates by the concerned government agency but not later than 6 months from the effectivity of this Order.

Section 8. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the wage rates shall take effect not earlier than the date the school actually increases tuition fees. However, beginning School Year 1999- 2000, all schools shall implement the new rates whether or not they have actually increased tuition fees.

Section 9. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers shall be borne by the principals of the construction/ service contractors and the contract shall be deemed amended accordingly. In the event however, that the principal fails to pay the prescribed minimum wage, the construction/ service contractor shall be jointly and severally liable with the principal or client.

Section 10. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piece work, takay, pakyaw or task basis, shall be entitled to receive the prescribed daily minimum wage for eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 11. WAGES OF SPECIAL GROUP OF WORKERS. Wages of apprentices, learners and handicapped workers shall in no case be less than seventy five percent (75%) of the applicable minimum wage rates. All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified insofar as their wage provisions are concerned to reflect the prescribed wage rates.

#### Section 12. EXEMPTIONS

a. The following may be exempted from the applicability of this Order upon application with and as determined by the Board in accordance with NWPC Guidelines No. 01, Series of 1996.

- i. Distressed Establishments
- ii. Retail / Service establishments regularly employing not more than 10
- iii. New Business Enterprises (NBEs)
- iv. Establishments adversely affected by natural calamities

b. All applications for exemption from compliance with this Wage Order shall be filed within 60 days from the date of publication of the Rules Implementing this Order.

In the case of NBEs, applications shall be filed not later than sixty(60) from the date of registration.

c. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance thereto shall be deferred pending its resolution.

d. In the event that the application for exemption is not granted, the applicant firm shall pay the appropriate compensation due to the covered workers as provided for in this Order plus interest of one percent (1%) per month, retroactive from the effectivity of this Order.

Section 13. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order issued by the Board may file an appeal with the Commission within 10 calendar days from the publication of this Order.

Section 14. EFFECT OF FILING OF APPEAL. The filing of the appeal shall not suspend the effectivity of the Wage Order unless the party appealing such Order files with the Commission an undertaking with a surety or sureties in such amount as may be fixed by the Commission.

Section 15. EFFECT ON EXISTING WAGE STRUCTURE. Where the application of the increases in the wage rates under Sec. 4 hereof, results in the distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Art. 124 of the Labor Code, as amended.

**The pendency of a dispute arising from wage distortion shall not in any way delay the applicability of any increase prescribed in this Order.**

Section 16. FREEDOM TO BARGAIN. This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 17. COMPLAINTS FOR NON- COMPLIANCE. Complaints for non-compliance with the wage increase prescribed under this Wage Order may be filed with the provincial/Regional Office of the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Art. 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 18. NON-DIMINUTION CLAUSE. Nothing in this order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or any contract or agreement between the workers and employers.

Section 19. REPORTING REQUIREMENT. Any person , company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 1999 and every year thereafter in accordance with the form prescribed by the Commission.

Section 20. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by the court, tribunal or other entity against any proceedings before the Board as provided for under RA 6727.

Section 21. PENAL PROVISIONS. Any person, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed adjustments in the wage rates prescribed in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 22. IMPLEMENTING RULES. The Board shall prepare the necessary rules and regulations to implement this Order, subject to the approval by the Secretary of Labor and Employment.

Section 23. REPEALING CLAUSE. All laws , orders, issuances, rules and regulation or parts thereof inconsistent with this Wage Order are hereby repealed, amended or modified accordingly.

Section 24. SEPARABILITY CLAUSE. If any provisions or part of this Order, or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of the Order or the application of such provision or part thereof to other persons or circumstance shall not be affected thereby.

Section 25. EFFECTIVITY. This Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the Region.

APPROVED. Butuan City, Philippines, August 17,1998

(SGD) ANSELMO A. SANGTIAN  
Member, Employers' Representative

(SGD) DONELL P. DAGANI  
Member, Labor Representative

(SGD) NUNILON M. CULTURA  
Member, Employers' Representative

(SGD)SIMPLICIO E. QUINDICA  
Member, Labor Representative

(SGD) JOSE V. MAZO  
Vice-Chairman, NEDA

(SGD) BRIELGO O. PAGARAN  
Vice-Chairman, DTI

(SGD) ARTURO L. SODUSTA  
Chairman

## RULES AND REGULATIONS IMPLEMENTING WAGE ORDER NO. RXIII-01

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure in minimum Wage Fixing and Section 22 of Wage Order No. RXIII-01, the following rules are hereby issued for guidance and compliance by all concerned in Caraga Region.

### RULE I GENERAL PROVISIONS

Section 1. TITLE. This Rule shall be known as “ The Rules and Regulations Implementing Wage Order No. RXIII-01”.

Section 2. DEFINITION OF TERMS - as used in this Rules.

- a. RA 6727 - refers to the “ Wage Rationalization Act”.
- b. RA 8188 - refers to the “ Act Increasing the Penalty and Imposing Double Indemnity for Violation of the Prescribed Increases or Adjustment in the Wage Rates.
- c. DEPARTMENT –refers to the Department of Labor and Employment R-XIII.
- d. COMMISSION- means the National Wages and Productivity Commission.
- e. BOARD- means the Regional Tripartite Wages and Productivity Board No. XIII.
- f. REGION XIII- covers the provinces of Agusan del Norte, Agusan del Sur, Surigao del Norte, Surigao del Sur and the Cities of Butuan and Surigao.
- g. AGRICULTURE- refers to farming in all its branches, including cultivation and tillage of soil, production, cultivation, growing and harvesting of agricultural and horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activities performed by a farmer in a farm as an incident to or in conjunction with such farming operations. This does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple aquatic or other farm products.
- h. PLANTATION AGRICULTURE- is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least twenty (20) workers. Any other agricultural enterprises shall be considered Non- plantation.
- i. COTTAGE/HANDICRAFT INDUSTRY- is one engaged in an economic endeavor in which the products are primarily done at home or such other places for profit which requires manual dexterity and craftsmanship and whose capitalization does not exceed P1.5 Million (in conformity with SMED Council Resolution No. 3 Series of 1995) regardless of previous registration with the defunct NACIDA.
- j. DISTRESSED ESTABLISHMENT- refers to establishment, which meets the criteria enumerated in Sec. 3 (A) of NWPC Guidelines No. 01 Series of 1996 .
- k. RETAIL ESTABLISHMENT- is one principally engaged in the sale of goods to the end users for personal or household use.
- l. SERVICE ESTABLISHMENT- is one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such.
- m. NEW BUSINESS ENTERPRISES- refers to establishments, including non-profit institutions, newly registered with the appropriate government agency such as Securities and Exchange Commission, Department of Trade and Industry, Cooperative Development Authority and Mayors’ Office within 2 years from the effectivity of the Wage Order.
- n. HANDICAPPED WORKERS - are those whose earning capacity is impaired by age or physical or mental deficiency or injury.
- o. BASIC WAGE- means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost of living allowances, profit-sharing payments, premium payments, 13<sup>th</sup> month pay, or other monetary benefits which are not considered as part of or integrated into the regular salary of the workers on the date the wage increase became effective.
- p. MINIMUM WAGE RATE -is the lowest wage rate that an employer can pay his worker as fixed by the Board.

- q. WAGE DISTORTION- means a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinction embodied in such wage structure based on skills, length of service or other logical basis of differentiation.
- r. ORDER - means Wage Order No. RXIII-01

RULE II  
NEW MINIMUM WAGE RATES

Section 1. COVERAGE

- a. The minimum wage rates prescribed under the Order shall apply to covered workers in the private sector regardless of their position, designation or status and irrespective of the method by which their wages are paid.
- b. Not covered by the provision of the Order are household or domestic helpers or persons employed in the personal service of another including family drivers.
- c. Workers and employees who, prior to the effectivity of the Order were receiving a basic wage rate per day or its monthly equivalent of more than those prescribed under the Order, may receive wage increases through the correction of wage distortions in accordance with Section 1, Rule IV of this Rules.
- d. The applicability of the new wage rate shall be determined on the basis of the employee's workplace. Should the employee be relocated to a place with a higher rate he shall receive such rate. Should he be relocated to a place with a lower rate, he shall continue to receive his rate without diminution.
- e. The minimum wage rates of workers, who by the nature of their work, have to travel, shall be those applicable in the domicile or head office of the employer. The minimum wage rates of workers working in branches or agencies of establishments in or outside the Caraga region shall be those applicable in the place where they are stationed.

Section 2. INTEGRATION OF COLA INTO THE BASIC WAGE. The existing Cost of Living Allowance (COLA) granted under WO No.RX-05-A and RTWPB XI-06 (Surigao del Sur) shall be integrated into the basic wage of covered workers effective September 5, 1998.

Only qualified recipients of the COLA under W.O. No. RX-05- A and RTWPB XI-06 (Surigao del Sur) are entitled to the integration.

Section 3. SIMPLIFICATION OF WAGE STRUCTURE. In order to simplify the wage structure under WO No RX-05-A and RTWPB XI-06 (Surigao del Sur), the Board hereby adopts the industry classification and wage categories as shown in Section 4 hereof.

Section 4. NEW MINIMUM WAGE RATES. Effective September 5, 1998, the daily minimum wage rates applicable to covered workers and employees in the private sector in Caraga Region shall be as follows: (tabulated comparison between the previous Wage Order and RXIII-01 is shown in Annex A).

DAILY MINIMUM WAGE RATES under W.O. RXIII-01

|                                | Butuan City | Surigao City | Agusan del Norte | Surigao Norte/ Agusan del Sur | Surigao del Sur |
|--------------------------------|-------------|--------------|------------------|-------------------------------|-----------------|
| AGRICULTURE                    |             |              |                  |                               |                 |
| Plantation                     | 136.00      | 134.00       | 133.00           | 131.00                        | 130.00          |
| Non-plantation                 | 116.00      | 114.00       | 113.00           | 111.00                        | 110.00          |
| NON AGRI                       | 146.00      | 144.00       | 146.00           | 144.00                        | 142.00          |
| RETAIL & SERVICE ESTABLISHMENT |             |              |                  |                               |                 |
| Employing 10 workers or less   | 116.00      | 114.00       | 113.00           | 111.00                        | 110.00          |
| Employing more than 10 workers | 146.00      | 144.00       | 146.00           | 144.00                        | 142.00          |

Section 5. BASIS OF PAYING MINIMUM WAGE. The statutory minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 6. APPLICATION TO COTTAGE AND HANDICRAFT INDUSTRIES. Cottage and handicraft industries are hereby classified under the non- agriculture sector. As such, they are required to comply with the Wage Order on a staggered basis within a period of one year from its effectivity in the following manner.

- a. Effective September 5, 1998 - Forty (40) percent of the total increase after COLA integration.
- b. Effective March 1, 1999 - Thirty (30) percent of the total increase after COLA integration.
- c. Effective August 1, 1999 - Thirty (30) percent of the total increase after COLA integration.

Section 7. APPLICATION TO INDUSTRIES WHOSE REVENUES ARE REGULATED BY LAW. Industries whose revenues are regulated by law (such as transportations, utilities, etc.) are required to comply with the Wage Order immediately upon approval of adjustment in their rates by the concerned government agency but not later than 6 months from the effectivity of the Order.

Section 8. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the new wage rates shall take effect not earlier than the date the school actually increases tuition fees. However, beginning School Year 1999-2000, all schools shall implement the new rates whether or not they have actually increased tuition fees.

Section 9. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers shall be borne by the principals of the construction/ service contractors and the contract shall be deemed amended accordingly. In the event however, that the principal fails to pay the prescribed minimum wage, the construction/ service contractor shall be jointly and severally liable with the principal .

Section 10. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piece work, takay, pakyaw or task basis, shall receive not less than the applicable minimum wage rates prescribed under the Order for the normal working hours which shall not exceed eight hours work a day, or a proportion thereof for work of less than the normal working hours.

The adjusted minimum wage rates for workers paid by results shall be computed in accordance with the following steps:

Amount of increase in AMW \* / Previous AMW x 100 = % increase;  
 Existing rate/piece x % increase = increase in rate / piece;  
 Existing rate / piece + increase in rate / piece = adjusted rate/piece  
 \* where AMW is the applicable minimum wage rate

The wage rates of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code, as amended and its implementing regulations.

Section 11. WAGES OF SPECIAL GROUP OF WORKERS. Wages of apprentices, learners and handicapped workers shall in no case be less than seventy five percent (75%) of the applicable minimum wage rates prescribed in this Order. All recognized learnership and apprenticeship agreements entered into before the effectivity of the Order shall be considered automatically modified insofar as their wage provisions are concerned to reflect the increases prescribed under the Order.

Section 12. SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY REGIONAL MINIMUM WAGE RATES. Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rates:

- a. For those who are required to work everyday including Sundays or rest days, special days and regular holidays:

$$\begin{array}{l} \text{Equivalent} \\ \text{Monthly} \\ \text{Rate (EMR)} \end{array} = \text{Applicable Daily Wage Rate (ADR) x 391.5 days/12}$$

where 391.5 days:

|            |   |
|------------|---|
| 302        | days - Ordinary working days  |
| 18         | days - 9 regular holidays x 200 %   |
| 2.6        | days - 1 regular holiday falling on last Sunday of August x 200 % + (30 % of 200 %) |
| 66.3       | days - 51 rest days x 130 %   |
| <u>2.6</u> | <u>days - 2 special days x 130%</u>   |
| 391.5      | days - Total equivalent number of days  |

b. For those who do not work but considered paid on rest days, special days and regular holiday

$$\text{EMR} = \text{ADR} \times 365 \text{ days} / 12$$

where 365 days:

|          |  |
|----------|--|
| 302      | days - ordinary working days           |
| 51       | days - rest days                       |
| 10       | days - regular holidays                |
| <u>2</u> | <u>days - special days</u>             |
| 365      | days - Total equivalent number of days |

For those who do not work and are not considered paid on Sundays or rest days:

$$\text{EMR} = \text{ADR} \times 314.6 \text{ days} / 12$$

where 314.6 days:

|            |  |
|------------|--|
| 302        | days - ordinary working days                     |
| 10         | days - regular holidays                          |
| <u>2.6</u> | <u>days - 2 special days (if worked) x 130 %</u> |
|            | days - Total equivalent number of days           |

For those who do not work and are not considered paid on Saturdays and Sundays or rest days:

$$\text{EMR} = \text{ADR} \times 262.6 \text{ days} / 12$$

where 262.6 days:

|            |  |
|------------|--|
| 250        | days - Ordinary working days                     |
| 10         | days - regular holidays                          |
| <u>2.6</u> | <u>days - 2 special days (if worked) x 130 %</u> |
| 262.6      | days - Total equivalent number of days           |

*Note: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being regular holiday under Executive Order No. 203.*

*For purposes of computation, said holiday, although still a rest day for them, is included in the ten regular holidays. For workers whose rest day does not fall on Sundays, the number of rest day is fifty two (52) days as there are fifty two (52) weeks in a year.*

*Nothing herein shall be construed as authorizing the reduction of benefits granted under the existing agreements or employer practices/policies.*

RULE III  
EXEMPTIONS

Section 1. EXEMPTIBLE CATEGORIES. Upon application with and as determined by the Board and in accordance with the NWPC Guideline No. 01 series of 1996 (Rules on Exemption), the following may be exempted from applicability of the Order:

- a. Distressed establishments
- b. New Business Enterprises
- c. Retail/service establishment employing not more than 10 workers
- d. Establishments adversely affected by natural calamities

Section 2. DURATION AND EXTENT OF EXEMPTION. A full exemption of one (1) year from the date of effectivity of the Order shall be granted to all categories of establishments that meet the applicable criteria for exemption under Sec. 3 of NWPC Guidelines No. 01, Series of 1996.

However, a partial exemption of 50% with respect to the amount or period of exemption shall be granted only in the case of distressed establishments.

Section 3. EFFECT OF FILING OF APPLICATION FOR EXEMPTION. Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be duly notified. Pending resolution of the said applications, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

Section 4. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION. In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage increase as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one (1 %) percent per month.

Section 5. MOTION FOR RECONSIDERATION. An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt of the decision, stating the particular grounds upon which the motion is based, copy furnished the other party and the Regional Office of the Department.

No second motion for reconsideration shall be entertained in any case. The decision of the Board shall be final and executory unless appealed to the Commission.

Section 6. APPEAL TO THE COMMISSION. Any party aggrieved by the Wage Order issued by the Board may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) calendar days from the date of the filing.

Section 7. EFFECT OF APPEAL. The filing of the appeal shall not suspend the effectivity of the Wage Order unless the person appealing such Order files with the Commission an undertaking with a surety or sureties in such amount as may be fixed by the Commission.

RULE IV  
SPECIAL PROVISIONS

Section 1. EFFECTS ON EXISTING WAGE STRUCTURE

a. Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortion through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of arbitrators within ten (10) calendar days from the time such dispute was referred to voluntary arbitration.

b. In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct the distortion. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and if it remains unresolved within ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide on the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

c. The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of the increase prescribed under the Order and such issue shall not be a ground for strike/lockout.

d. Suggested formula for correcting Distortion.

$$\frac{\text{Previous Minimum Wage Rate}}{\text{Present Salary}} \times \text{Amount of Minimum Wage Adjustment under WO RXIII-01} = \text{Amount of adjustment due to distortion}$$

Section 2. COMPLAINTS FOR NON- COMPLIANCE. Complaints for non- compliance with the wage increase prescribed under the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Art. 128 and 129 of the Labor Code as amended.

Section 3. CONDUCT OF INSPECTION BY THE DEPARTMENT. The Department shall conduct inspections of establishments, as often as necessary, to determine whether the workers are paid the prescribed wage rates and other benefits granted by law or any Wage Order. In the conduct of inspection in unionized companies, Department inspectors shall always be accompanied by the president or other responsible officer of the recognized bargaining unit or of any interested union. In the case of non-unionized establishments, a worker representing the workers in the said company shall accompany the inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not concur with the findings of the labor inspector.

Section 4. NON-DIMINUTION CLAUSE. Nothing in the Order and in this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and or any contract or agreement between the workers and employers.

Section 5. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or Board.

#### Section 6. PENAL PROVISIONS

a. Pursuant to the provisions of Sec. 12 of RA 6727 as amended by RA 8188, any person , corporation, trust, firm, partnership, association or entity which refuses or fails to pay any of the prescribed increases in the Order shall be punished by a fine not less than Twenty-five thousand pesos (P25,000.00) nor more than One hundred thousand pesos(P100,000.00) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

b. If the violation is committed by a corporation, trust, or firm, partnership, association, or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president , chief executive officer, general manager, managing director or partner.

c. Any entity who refuses or fails to pay any of the prescribed increases or adjustments in the wage rates shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees. Provided however, that payment of indemnity shall not absolved the employer from the criminal liability imposed under this Act.

Section 7. FREEDOM TO BARGAIN. The Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

Section 8. REPORTING REQUIREMENTS. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 1999 and every year thereafter in accordance with the form prescribed by the Commission.

Section 9. SEPARABILITY CLAUSE . If any provisions or part of the Order and this Rules or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 10. EFFECT ON OTHER ISSUANCES. The provision of existing laws and decrees on wages and their implementing rules and regulations and issuances not otherwise repealed, modified or inconsistent with the Order, and this Rules shall continue to have full force and effect.

Section 11. EFFECTIVITY. This Rules shall take effect on September 5, 1998.

APPROVED.

Butuan City, Philippines, August 27,1998

(SGD) ANSELMO L. SANG TIAN  
Member, Employers' Representative

(SGD) DONELL DAGANI  
Member, Labor Representative

(SGD) NUNILON M. CULTURA  
Member, Employers' Representative

(SGD) SIMPLICIO E. QUINDICA  
Member, Labor Representative

(SGD) JOSE V. MAZO  
Vice-Chairman, NEDA

(SGD) BRIELGO O. PAGARAN  
Vice-Chairman, DTI

(SGD) ARTURO L. SODUSTA  
Chairman

Approved this 7<sup>th</sup> day of October, 1998.

(SGD) BIENVENIDO E. LAGUESMA  
Secretary