

Republic of the Philippines  
Department of Labor and Employment  
National Wages and Productivity Commission  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY COMMISSION**  
Cordillera Administrative Region  
Benitez Court Compound, Magsaysay Avenue.  
Baguio City

WAGE ORDER NO. RB-CAR-03  
PROVIDING FOR AN INCREASE IN THE MINIMUM WAGE

WHEREAS; RA 6727, otherwise known as the wage rationalization act, empower the Regional Tripartite Wage and Productivity Board to determine and fix minimum wage rates applicable in the region and to issue the corresponding wage orders subject to the guidelines issued by the National W,ages and Productivity Commission.

WHEREAS: Wage Order RB-CAR-02 and its Supplemental RB-CAR-02A were promulgated last year (1995) but were of specific application lifting only the COLA exemption granted to Tourism Oriented Establishments as provided in the previous Wage Orders. Said exemption were the most adversely affected business firms wrought about by the 1990 killer earthquake.

WHEREAS: the Regional Tripartite Wages and Productivity Board, Cordillera Administrative Region (RTWPB-CAR), motu proprio, conducted public hearing and studies on the economic situation of the region to determine if there is a need to increase the minimum wage rates of the private sector workers.

WHEREAS: results of the consultations and studies conducted indicate a need to help the private sector workers be able to cope up with ever rising cost of living.

WHEREAS: cognizant of all the above conditions, the Board has determined that there is a need to increase the wages of the private sector workers while allowing business and industry reasonable returns on their investment.

NOW THEREFORE: by virtue of the power and authority vested upon RTWPB-CAR by RA 6727, the Regional Board hereby issues this Wage Orders.

Sec. 1. COVERAGE. Upon effectivity of this Order, all workers in the private sector in CAR receiving a rate of not more than P155.00/day shall be entitled to a daily basic wage increase in the amount of TEN PESOS (10.00).

Sec. 2. Creditable Wage Increase.

- a. Wage increases granted in an organized establishment within three (3) months prior to the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein, provided that an agreement to this effect has been forged between the parties or a provision in the Collective Bargaining Agreement (CBA) allowing creditability exist.
- b. In the case of the unorganized establishment, wage increases granted by the employer within six (6) months prior to the effectivity of this Order shall be credited as compliance.
- c. In the case of the Tourism Oriented Establishment, the in the form of COLA paid by them to their employees as mandated by Wage Order RB-CAR-02 and its Supplemental Oder, RB-CAR-02-A shall not be considered as compliance to the increase prescribed herein, however, the tourism oriented establishment shall start paying the prescribed

wage increase to their employees after three (3) months following the effectivity of this Order.

Sec.3. Application to Private educational Institutions. In the case of private educational institutions, the wage increase prescribed under this Wage Order shall take effect at the time they shall have increased their tuition fees within school year 1996-1997. However, educational institutions which will not increase their tuition fees during the school year 1996-1997 shall pay their workers the wage increase prescribed herein beginning school year 1997-1998.

Sec. 4. Application to Establishment on Suspended Operations. In the case of establishment whose operations are suspended at the time of the promulgation of this Wage Orders, the wage increase prescribed herein shall be effected by them right upon resumption of their operations.

Sec. 5. Application to Contractors. In contracts for constructions projects and for security, janitorial and other similar services, the wage increase herein provided shall be borne by by the principals or clients of the constructions/service contractors. In the events, however, that the principal or clients fails to pay the prescribed increase, the construction/service contractor shall be jointly and severally liable with the principal or clients.

Sec. 6. Workers Paid by Results. All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive the prescribed wage rates for the normal working hours which shall not exceed eight (8) hours per day or a proportion thereof for working less than eight (8) hours.

Sec. 7. Mobile and Branch Workers. 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 branches or agencies or establishments in or outside the Region shall be those applicable in the place where they are stationed.

Sec 8. Transfer of Personnel. The transfer of personnel from one Province of Region to another shall not be valid ground for the reduction of the wage rate being enjoyed by the worker prior to the transfer.

#### Sec. 9. Exemptions

- a. Automatic Exemption. Automatically exempted from the provisions of this Order are households or domestic helpers and persons in the personal service of another including family drivers.
- b. Non-Automatic Exemption. Upon proper application with and as determined by the Board, the following categories or establishments maybe exempted from the applicability of this Order:
  1. Distressed establishments as provided under Section 3 of the NWPC Revised Guidelines on Exemptions;
  2. New Business Establishments duly registered and set up within six (6) months from the effectivity of the effectivity of this Order reckoned from the date of original registration with the office of the Mayor.
- c. duration and Extent Exemption. The establishments that properly applied and found qualified for exemptions shall be granted maximum of one (1) year from the effectivity of this Order except for distressed establishments which maybe granted either full or partial

exemption as the case maybe based on section 7 of the NWPC Revised Guidelines on Exemption.

Sec. 10. Wage Distortions. Where the application of the new minimum wage rates prescribed under this Order results in distortions, the distortions shall be corrected using the procedures specified under Article 124 of the Labor Code, as amended..

Sec. 11. Non- Diminution of Benefits. 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 under any contract or agreement between the workers and employers.

Sec. 12. Complaints for Non-Compliance. Complaints for non-compliance with the new minimum wage rates prescribed under this Order may be filed with the regional Office of the Department of Labor and Employment Cordillera Administrative Region (DOLE-CAR) and shall be the subject of enforcement proceeding under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution.

Sec. 13. Penal provisions. Any persons, corporation, trust, firm, partnership, association or entity which refuses or fails to pay any of the prescribed increases or adjustments in the new minimum wage rates made in accordance with this Order shall be punished by a fine not exceeding P 25,000.00 and/or imprisonment of not less than one year nor more than two year; Provided, that any person convicted under this Order shall not be entitled to the benefits provided for under the probation law.

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.

Sec. 14. 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 Board.

Sec. 15. Rules Implementing this Order. The Board shall prepare the necessary rules to implement this Order, subject to approval of the Secretary of Labor and Employment.

Sec. 16. Separability Clause. If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Sec. 17. Effectivity. This Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the Cordillera Administrative Region.

Approved this 11<sup>th</sup> day of April 1996, Baguio City.

(SGD) ADRIANO M. BIALA  
Workers Representative

(SGD) JESSIE N. PAGARAN  
Workers Representative

(SGD) MARQUEZ O. GO  
Employers Representative

VACANT  
Employers Representative

(SGD) ARMANDO P. GALIMBA  
Vice-Chairman

(SGD) JUAN B. NGALOB  
Vice-Chairman

(SGD) ALEX E. MARAAN  
Chairman

Republic of the Philippines  
Department of Labor and Employment  
National Wages and Productivity Commission  
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY COMMISSION  
Cordillera Administrative Region  
Benitez Court Compound, Magsaysay Avenue.  
Baguio City

WAGE ORDER RB-CAR-03A  
AMENDING SECTION FOUR OF WAGE ORDER RB-CAR-03

By virtue of the power and authority vested upon the regional Tripartite Wages and Productivity board – Cordillera administrative Region (RTWPB-CAR) by Republic Act 6727, otherwise known as the Wage Rationalization Act. The Board hereby issues wage Order RB-CAR-03-A to amend Section 4 of

Section 4. Application to Establishment on suspended Operation. Establishment whose operations are suspended at the time of the promulgation of WO RB-CAR-03 may be granted deferment of the effectivity of the wage increase prescribed in the Order only upon application with and as determined by the board in accordance with the criteria prescribed in the Implementing rules and Regulations.

The effectivity of this amendatory Order shall retroact to 29 April 1996 concurrent with the effectivity of WO-RB-03 of which it is a part of.

Approved in the City of Baguio, Philippines. This 27<sup>th</sup> day of August 1996.

(SGD) ADRIANO M. BIALA  
Workers Representative

(SGD) JESSIE N. PAGARAN  
Workers Representative

(SGD) MARQUEZ O. GO  
Employers Representative

VACANT  
Employers Representative

(SGD) ARMANDO P. GALIMBA  
Vice-Chairman

(SGD) JUAN B. NGALOB  
Vice-Chairman

(SGD) ALEX E. MARAAN  
Chairman

RULES AND REGULATIONS IMPLEMENTING  
WAGE ORDER RB-CAR-03

Pursuant to Section 5, Rule IV of the NWPC. Revised Rules of Procedure on Minimum Wage Fixing and Section 15 of Wage Order No. RB-CAR-03, the following rules are hereby issued for guidance and compliance by all concerned in the Cordillera Administrative Region:

R U L E    1  
GENERAL PROVISIONS

Section 1. Title.     This rule shall be known as “The Rules Implementing Wage Order RB-CAR-03”.

Section 2. Definition of terms as used in this Rules.

- a.) “ACT” means Republic Act No. 6727:
- b.) “ORDER” means Wage Order No. RB-CAR-03;
- c.) “Commission “ refers to the National Wages and Productivity Commission;
- d.) “Board “refers to the Regional Tripartite Wages and Productivity Board - Cordillera Administrative Region;
- e.) “Department” refers to the Department of Labor and Employment.
- f.) “DOLE-CAR” refers to the Department of Labor and Employment, Cordillera Administrative Region
- g.) “CAR” shall refer to the Cordillera Administrative Region composed of the provinces of Abra, Benquet, Ifugao, Mt. Province, Kalinga and Apayao nad the City of Baguio.
- h.) “Agriculture” refers to the farming in all its branches and among others, indicates the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural and horticultural commodities, dairying raising of livestock or poultry, the culture of fish and other aquatic products in farm or ponds and any activities performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, pineapple, aquatic or other farm products.
- i.) “Plantation, Agricultural Enterprise” is one engaged in agriculture with an area of more than twenty four (24) in the locality or which employs at least twenty (20) workers. Any other agricultural enterprise shall be considered as belonging to the Non-Plantation Agricultural Enterprise;
- j.) “Retail Establishment” is one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such;
- k.) “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;
- l.) “Tourism Oriented Establishments” refers to those that minister to the comfort of tourist, including but not limited to hotels, inns, restaurant, curio and souvenirs shops and similar establishment and those that cater to the accommodation of tourists, foreign and local.

- m.) "Wage Order RB-CAR-02" an Order lifting the COLA exemption for hotel and restaurant employees as mandated by RB-01-A and RB-02-A;
- n.) "Wage Order RB-CAR-02 a supplemental order or RB-CAR-02 lifting the COLA exemption for other tourism oriented establishments;
- o.) "Cottage/Handicraft Establishment" is one engaged in an economic endeavors in which the product are primarily done in the home or similar places for profit which requires manual dexterity and craftsmanship and whose capitalization does not exceed P500,000.00;
- p.) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Sec. 3 (3) of the NWPC Guidelines on Exemption;
- q.) "Basic Wage" means all remunerations 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 allowance, profit sharing payments, premium payments, 13<sup>th</sup> month pay and other monetary benefits which are not considered as part of an integrated into the regular salary of the worker on the date the wage became effective;
- r.) "Minimum Wage Rates" refer to the lowest wage rate that an employer can pay his workers, as fixed by the Board, and which shall not be lower than the applicable statutory minimum wage rates;
- s.) "Wage Distortion" means a situation where an increase where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitatively 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 the skills, length of service, or other logical bases of differentiation;
- t.) "New Business Enterprises" refer to establishments newly registered with the Mayors Office within the period April 30,1996 to August 30,1996
- u.) "Establishment on Suspended Operations" refers to business establishments which temporarily stopped their operations due to serious business reversals before on at the time of the promulgation of the Order but not to establishments which temporarily closed after the promulgation of the said Order.

R U L E II  
W A G E I N C R E A S E

Section 1. Coverage

The wage increase prescribed under the Order shall apply to all private sector workers and employees in CAR receiving not more than on hundred fifty five pesos (P155.00) per day regardless of their position, designation or status and irrespective of the method by which their wage are paid.

Section 2. Amount and Effectivity of Increase.

Workers and employees covered in the proceeding section shall receive a basic wage increase in the amount of ten pesos (P10.00) per day upon the effectivity of the Order in the following manner:

AMOUNT	EFFECTIVITY
P10.00	15 days after publication of the order (April 20,1996)

Section 3. Daily Minimum Wage Rates

Upon the effectivity of the Order, the minimum Wage Rates in CAR shall be as follows:

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Without prejudice to existing company practices agreements or policies, the following maybe used as a guide in determining the equivalent monthly minimum wages rates.

Suggested Formula in determining the Equivalent Monthly Rates:

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

$$\begin{aligned}
 \text{Equivalent Monthly Rate (EMR)} &= \frac{\text{Applicable Daily X } 391.50 \text{ wage Rate (ADR)}}{12} \\
 &= 302.0 \text{ - ordinary/working days} \\
 &\quad 18.0 \text{ - 9 regular holidays x 200\%} \\
 &\quad 2.6 \text{ - 1 regular holidays falling on last Sunday of August x 200\% + (30\% of 200\%)} \\
 &\quad 66.3 \text{ - 51 rest days x 130\%} \\
 &\quad 2.6 \text{ - 2 special days x 130\%} \\
 &\quad 391.5 \text{ days Total Equivalent number of days}
 \end{aligned}$$

- b) For those who do not work but are considered paid on rest days and holidays

$$\begin{aligned}
 \text{Equivalent Monthly Rate (EMR)} &= \frac{\text{Applicable Daily x } 365 \text{ Wage Rate (ADR)}}{12} \\
 &= 302 \text{ - ordinary working days} \\
 &\quad 2 \text{ - special days} \\
 &\quad 51 \text{ - rest days} \\
 &\quad \underline{10 \text{ - regular holidays}} \\
 &\quad 365 \text{ days Total Equivalent Number of days}
 \end{aligned}$$

- c) For those who do not work and are not considered paid on Sundays or rest days

$$\begin{aligned}
 \text{Equivalent Monthly Rate (EMR)} &= \frac{\text{Applicable Daily x } 314.6 \text{ Wage Rate (ADR)}}{12} \\
 &= 302.0 \text{ days - ordinary working days} \\
 &\quad 2.6 \text{ days - 2 special days (if worked) x 130\%} \\
 &\quad \underline{10.0 \text{ days - regular holidays}} \\
 &\quad 314.6 \text{ days - Equivalent Number of Days}
 \end{aligned}$$

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

$$\begin{aligned}
 \text{Equivalent Monthly Rate (EMR)} &= \frac{\text{Applicable Daily x } 262.6 \text{ Wage Rate}}{12} \\
 &= 250.0 \text{ - ordinary days} \\
 &\quad 2.6 \text{ - 2 special days (if worked)}
 \end{aligned}$$

		x 130%
10.0	-	regular holidays
262.6		Total Equivalent Number of days

*Note: Using the above indicated factors (a factor representing number of days as multiplier), the basic wage for the worked days and the holiday pay for the ten regular days are included in the monthly rates to be derived. Thirty (30%) rest day premium has integrated in factor 391.5 for all the Sundays/rest days in a year including the last Sunday of August and in factor 314.6 and 262.6 for the two special days (November 1 and December 31) under Executive Order No. 203.*

### Section 3. Creditable Wage Increase

a. Wage increases granted in an organized establishment within three(3) months prior to the effectivity of the Order shall be credited as compliance with the prescribed increase set forth therein, provided that an agreement to this effect has been forged between the parties or a provision in the Collective Bargaining Agreement (CBA) allowing creditability exists.

b. In the case of the unorganized establishments, wage increases granted by the employer within six(6) months prior to the effectivity of the Order shall be credited as compliance.

c. In the case of the Tourism Oriented Establishments, the amount in the form of COLA paid by them to their employees as mandated by Wage Order Rb-CAR-02 and its Supplemental Order, RB-CAR-02-A shall not be considered as compliance to the increases prescribed in the Order. However, the tourism oriented establishment shall start paying the prescribed wage increases to their employees after three(3) months following the effectivity of the Order.

### Section 4. Application to Private Educational Institutions.

In the case of private educational institutions, the wage increases prescribed under the Wage Order shall take effect at the time they have increased their tuition fees within school year 1996-1997. However, educational institutions which will not increase their tuition fees during the school year 1996-1997 shall pay their workers the wage increases prescribed in the Order beginning school year 1997-1998.

### Section 5. Application to Establishment on Suspended Operations.

In the case of establishments whose operations are suspended at the time of the promulgation of the Wage Order, the wage increase prescribed therein shall be effected by them right upon the resumption of their operations.

### Section 6. Application to Contractor.

In contracts for constitution projects and for security, janitorial and other similar services, the wage increases herein provided shall be borne by the principals on clients of the contractor/service contractors. In the event, however, that the principal or client fail to pay the prescribed increases, the constructions/service contractor shall be jointly and severally liable with the principal or client.

### Section 7. Workers Paid by Results.

a. All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the applicable minimum wage rates exceed eight (8) hours per day, or a proportion thereof, for working less than eight (8) hours.

The minimum wage increase for the workers paid by results shall be computed in accordance

with the formula provided hereunder.

1. Amount of Increase in

*Applicable minimum wages x 100% = % increase:*

previous applicable  
minimum wage

2. Existing rate/piece + increase = increases in rate/piece
3. existing rate/piece + increases in rate/piece adjusted rate per piece.

b. Wage rates of workers paid by results. In order to ensure payment of fair and reasonable wage rate, the same shall be determined through time and motion studies or in consultation with representative of workers and employer's organizations;

#### Section 8. Mobile and Branch Workers.

The minimum wage increases of workers, who by the nature of their work have 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 Region shall be those applicable in their place where they are stationed.

#### Section 9. Transfer of Personnel

The transfer of personnel from one province or region to another shall not be valid ground for the reduction of the wage rate being enjoyed by the worker prior to the transfer.

#### Section 10. . Basis of Minimum Wage Increase.

The minimum wage increase prescribed on the wage order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

### RULE III EXEMPTIONS

#### Section 1. Workers not covered in the Order.

Exemptions from the provisions of the order are household or domestic helpers and person employed to the personal services of another including family drivers.

Section 2. Who may be Exempted. Upon application with and as determined by the Board and in accordance with the applicable rules and regulations issued by the Commission, the following may be exempted from applicability of the Order.

- a. Distressed establishments whose paid-up capital has been impaired by at least twenty-five (25%) percent or which registered capital deficiency or negative net worth.
- b. New business establishment duly registered and set up within six (6) months from the effectivity of the Order reckoned from the date of original registration with the Office of the Mayor.

#### Section 3. Duration and Extent of Exemption

Establishment found qualified from exemption shall be granted full exemption of one (1) year from effectivity of the Order.

However, in the case of the distressed establishments which register at least twenty (20%) percent but less than twenty five (25%) percent capital impairment of at least seven and one half percent (7.5%) but less than ten (10%) percent decline in revenue, as the case may be shall be granted partial exemption.

Section 4. Application for Exemption within sixty (60) days from the date of publication of this rules in application fro exemption shall be filed with the Board in two (2) typewritten copies by the owner/manager or duly authorized representative of an establishment, either through personal service or by registered mail. The date of mailing shall be deemed as the date of filing.

All applications for exemption shall be under oath and must be supported by a proof of notice to the Union President/contracting party (in case the establishment is organized) or a copy of the circular giving general notice to all workers (if there is no union) that an application for exemption from compliance with the Order has been filed with the Board. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

Section 5. Supporting Documents. Aside from those prescribed in the preceding Section, and in accordance with the rules prescribed in the NWPC Guidelines on Exemption, the following supporting documents shall be submitted with the application:

- a. For Distressed Establishments:
  1. Audited financial statements for the last two full accounting periods immediately preceding the effectivity of the Order filed with and stamped "RECEIVED" by the BIR and SEC.
  2. Interim quarterly financial statements for the period immediately preceding the effectivity of the Order.
  3. Income tax returns for the last two taxable periods filed with and stamped "RECEIVED" by the BIR.
  4. Quarterly income tax returns immediately preceding the effectivity of the Order filed with and stamped "RECEIVED" by the BIR.
- b. For New Business Establishments:
  1. Affidavit from employer stating the following:
    - 1.a. principal economic activity;
    - 1.b. date of start of operations;
    - 1.c. number of employees;
    - 1.d. amount of total assets;
    - 1.e. Business Permit for the current year from Office of the Mayor, SEC, DTI or CDA registration

In case an application for exemption is filed with incomplete supporting documents, the applicant shall be notified and shall be given ten (10) calendar days from receipt of notice to complete the documents required, otherwise the application shall be dismissed.

The Board may require for the submission of other pertinent commercial documents to support the application for exemption and are also ten (10) days from receipt of the request to submit the same.

Section 6. Effect of Filing of an Application for Exemption. Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be notified. Pending resolution of the said application, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

Section 7. Effect of Disapproved Application. In the event that the application for exemption which has been filed is not granted, the workers and employees shall receive the appropriate compensation due them as provided for under the Order plus interest of one percent (1%) per month retroactive to the date of effectivity of the Order.

Section 8. 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 the 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 entertained in any case. The decision of the Board shall be final and executory unless appealed to the Commission;

Section 9. Appeal. Any party aggrieved by the decision of the Board may file an appeal to the Commission through the Board, in two (2) legible copies, not later than ten (10) calendar days from date of receipt of the decision. The appeal must be filed in the manner prescribed by the Commission and must be based on any of the following grounds:

- a. Non-conformity with the prescribed guidelines/procedures on exemption;
- b. Prima facie evidence of grave abuse of discretion on the part of the Board; and
- c. Questions of law.

#### RULE IV WAGE DISTORTION

Section 1. Effect on Existing Wage Structure. Where the application of the wage increase prescribed in the Order results in distortions in the wage structure within the establishment, the wage distortions may be resolved using the following formula:

$$\frac{\text{Minimum Wage under WO-RB-CAR-03}}{\text{Present Salary}} \times \text{Minimum Wage Adjustment} \\ = \text{Amount of wage adjustment due to distortion}$$

Section 2. Settlement of Disputes. Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortions 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 voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor union, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after 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 the dispute within twenty (20) calendar days from the time the said dispute is submitted for compulsory arbitration.

Section 3. Effect of Dispute. The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of the wage increase prescribed in the Order.

R U L E V  
SPECIAL PROVISIONS

Section 1. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase set forth in the Order shall be filed with the Regional Office of the Department and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 2. Non-Diminution of Benefits. Nothing in the Order and this Rules shall be construed as authorizing the reduction of 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 and employer practices or policies.

Section 3. Penal Provision. Pursuant to the provisions of Section 12 of Republic Act No. 6727, any person, corporation, trust firm, partnership, association or entity which refuses or fails to pay the prescribed increase in the Order shall be punished by a fine not exceeding P25,000.00 and/or imprisonment of not less than one (1) year nor more than two (2) years. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

If the violation is committed by a corporation, trust or firm, partnership, association or 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.

Section 4. Prohibition Against Injunction. No preliminary or permanent injunction on temporary restraining order may be issued by any court, tribunal or other entity against any proceeding before the Board.

Section 5. Effect on Other Issuances. The provisions 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 6. Effectivity. This rules shall take effect upon approval by the Secretary of Labor and Employment.

Done this 30<sup>th</sup> day of April, 1996 at Baguio City, Philippines.

(SGD) ADRIANO M. BIALA  
Workers Representative

(SGD) MARQUEZ O. GO  
Employers Representative

(SGD) ARMANDO P. GALIMBA  
Vice-Chairman

*I dissent. Thoroughly insufficient to address the needs of the workers, some provisions do not conform to NWPC guidelines.*

(SGD) JESSIE N. PAGARAN  
Workers Representative

(SGD) MA. MIGNON DE LEON  
Employers Representative

(SGD) JUAN B. NGALOB  
Vice-Chairman

(SGD) ALEX MARAAN  
Chairman

NOTATIONS TO THE RULES IMPLEMENTING WAGE ORDER NO. RB-CAR-03

APPROVED, this 19<sup>th</sup> day of August 1996 subject to the notations below:

(SGD) LEONARDO A. QUISUMBING  
Secretary of Labor and Employment

1. On the definition of cottage/handicraft establishments

The definition of "Cottage/Handicraft Establishments" under Section 2(0), Rule I should conform with the SMED Council Resolution No.03, Series of 1995 which provides for a maximum capitalization of P1, 500,000.00 for cottage industries.

2. On the definition of new business enterprises

The definition of "New Business Enterprise" under Section 2(t), Rule I should be revised to conform with Section 9.b(2) of the Wage Order and Rule III, Section e 2(b) of the Rules, as follows:

"New Business Enterprises" refer to establishments newly registered with the Mayor's Office within six months from effectivity of the Order (or from April 30, 1996 to October 30, 1996).

3. On the definition of establishments on suspended operations

The definition of "Establishments on Suspended Operations" under Section 2(u), Rule I should be revised to read as follows:

"Establishments on Suspended Operations" refer to business establishments, which temporarily stopped their operations due to serious business reverses before or at the time of the promulgation of the Order, and which meet the criteria specified in Section 5, Rule II hereof, but not to establishments which temporarily closed after the promulgation of the said Order.

4. On the application to establishments on suspended operations, criteria and documents required

a) Section 5, Rule II on "Application to Establishments on Suspended Operations" should be revised to read as follows:

In the case of establishments whose operations are suspended at the time of the promulgation of the Wage Order, the effectivity of the wage increase prescribed therein, shall be deferred with respect to employees retained by the establishment, until such time that the establishment has resumed operations but not beyond twelve (12) months from date of effectivity of the Order; Provided however, that the establishment suffered a capital impairment of 50% or more for the last two (2) full accounting periods and interim period; if any, prior to date of suspension of operations.

b) Deferment of the effectivity of the wage increase for establishments on suspended operations may be allowed only upon application with and as determined by the Board in accordance with the criteria prescribed in the Rules. The Board shall issue an amendatory Wage Order to this effect.

c) Applications of establishments on suspended operations shall be filed not later than sixty (60) days from date of publication of the Rules.

d) The required documents to be submitted by establishments on suspended operations should also be included in Section 5, Rule II as follows:

- (1) Proof of notice of filing of the application to the President of the union/contracting party if one is organized in the establishment, or if there is no union, a copy of a circular giving general notice of the filing of the application to all the workers in the establishment. The proof of notice, which may be translated in the vernacular, shall state that the workers representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.
- (2) Affidavit from employer stating the following:
  - a. Principal economic activity
  - b. Reason for suspension of operation
  - c. Duration of suspension of operation
  - d. List of retained employees
- (3) Proof of notice/certification of the suspension of operations from the concerned government agency/s.
- (4) Audited financial statements for the last two full accounting periods and interim period, if any, prior to date of suspension of operations.
- (e) Whenever suspension of operations exceeds twelve (12) months from effectivity of the Order, the establishment shall notify the Board in writing of any request for extension of the deferment period, which shall be subject to approval by the Board. Upon resumption of operations, it shall likewise file a notice with the Board that it, had resumed operations.

5. On the deadline for filing applications for exemption of new business enterprises (NBEs)

The deadline for filing applications for exemption of NBEs, which is 60 days from start of operations in accordance with the NWPC Guidelines on Exemption, should be provided for in Section 4, Rule III.

6. On the effect on existing wage structure

Section 1, Rule IV should be revised in accordance with the revision/correction made by the Board per its letter dated 15 May 1996, as follows:

Where the application of the wage increase prescribed in the Order results in distortions in the wage structure within the establishment, the distortions shall be corrected using the procedures provided under Article 124 of the Labor Code, as amended. The following formula may be used to correct the same.

$$\begin{array}{r}
 \text{Previous Minimum Wage} \\
 \text{and COLA} \\
 \hline
 \text{Actual Salary}
 \end{array}
 \times
 \text{Prescribed wage increase}$$

= Amount of wage adjustment due to distortion

In light of the above findings, the Board is advised to take the necessary corrective action on Wage Order No. RB-CAR-03 and its Implementing Rules.

For compliance and guidance.