

Republic of the Philippines
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Cordillera Administrative Region
Baguio City

WAGE ORDER RB-CAR-04
PROVIDING FOR AN INCREASE IN THE MINIMUM WAGE
AND INTEGRATION OF THE EXISTING COLA TO THE BASIC PAY

WHEREAS, RA 6727, otherwise known as the Wage Rationalization Act, empowers the Regional Tripartite Wages 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 Wages and Productivity Commission;

WHEREAS, there was a series of oil price increases, which triggered increases in the prices of goods and services and transport fare hike;

WHEREAS, seven labor groups in the region filed their respective petitions for wage increases with five of them adding a petition for the integration of the existing cost of living allowance (COLA) to the basic pay;

WHEREAS, three mining companies in the region filed their opposition to any wage increase citing the still unfavorable business and economic condition in the mining industry as their reason;

WHEREAS, the Regional Tripartite Wages and Productivity Board, Cordillera Administrative Region conducted consultations with the public 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, the results of the consultation and studies conducted indicate a need to help the private sector workers to be able to cope up with the ever rising cost of living;

WHEREAS, cognizant of all the above conditions, the Board has determined to increase the wages of the private sector workers in the region but in a manner which will not hamper the growth of business and industry and to integrate the existing COLA to the basic pay;

NOW THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board, Cordillera Administrative Region (RTWPB-CAR) hereby issues this Wage Order.

Section 1. Coverage. All workers in the private sector in the region receiving a rate of not more than P170.00/day shall be entitled to a daily basic wage increase in the amount of TEN PESOS (P10.00), which shall be given in a staggered basis as follows:

- a. P5.00 per day effective May 1, 1997; and
- b. P5.00 per day effective July 1, 1997.

Section 2. COLA Integration. The prevailing Cost of Living Allowance (COLA) in the amount of P17.00 per day in the provinces of Abra, Benguet, Mt. Province, and the City of Baguio and P8.00 per day in the provinces of Ifugao, Kalinga and Apayao shall be integrated to the basic pay of all workers receiving the said COLA upon the effectivity of this Order.

In cases where some establishments have already integrated the COLA applicable to them prior to the effectivity of this Order, the same shall be considered as compliance to the integration provision of this Order. Those who integrated the same but only partially shall integrate the balance thereof in accordance with this Order.

Section 3. 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 exists.
- b. In the case of the unorganized establishments, wage increases granted by the employer within six (6) months prior to the effectivity of this Order shall be credited as compliance.

In the event that increases given under (a) and (b) are less than the prescribed adjustment, the employer shall pay the difference. Such increases shall not include anniversary increases merit increases and those resulting from the regularization or promotion of employees.

Section 4. *Application to Private Educational Institutions.* Private educational institutions which will increase their tuition fees beginning School Year 1997 – 1998 shall comply with the prescribed wage increase under this Order as follows:

- a. P5.00 per day effective June 01, 1997 and the other P5.00 per day effective July 01, 1997;
- b. In cases where the tuition fee increase was effected during the School Year 1997-1998 but after July 01, 1997, the total amount of P10.00 per day increase shall be implemented effective the date of the tuition fee increase;
- c. Schools which will not increase their tuition fees during School Year 1997-1998 shall pay their covered workers the wage increase prescribed herein beginning School Year 1998-1999.

Section 5. *Application to Establishments on Suspended Operations.* Establishments whose operations are suspended before or at the time of the promulgation of this Order maybe granted deferment of the effectivity of the wage increase prescribed herein only upon application with and as determined by the Board in accordance with the criteria prescribed in the Implementing Rules and Regulations.

Section 6. *Application to Contractors.* In contracts for construction projects and for security, janitorial and other similar services, the wage increases herein provided shall be borne by the principals or clients of the construction/service contractors. In the event, however, that the principal or client fails to pay the prescribed increase, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 7. *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.

Section 8. *Apprentices, learners, handicapped workers.* Wages of apprentices, learners and handicapped workers shall in no case be less than seventy-five (75%) percent of the minimum wage rates prescribed in this Order.

Section 9. *Mobile and Branch Workers.* The minimum wage rates of workers, who by 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 Region shall be those applicable in the place where they are stationed.

Section 10. *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 11. Exemptions.

- a. **Automatic Exemption.** Automatically exempted from the provisions of this Order are household 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 of establishments maybe exempted from the applicability of this Order:
 1. Distressed establishment as defined in the NWPC Guidelines No. 01, series of 1996;
 2. New Business Enterprises duly registered and established within two (2) years from effectivity of this Order classified under any of the following:
 - a. Agricultural establishments whether plantation or non-plantation; and
 - b. Establishments with total assets after financing of five million (P5,000,000.00) pesos and below.
- c. **Duration and Extent of Exemption.** The establishments that properly applied and found qualified for exemptions shall be granted a 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 the NWPC Guidelines No. 01, series of 1996.

Section 12. Wage Distortions. Where the application of the new minimum wage rates prescribed under this Order results in distortion, it shall be corrected using the procedures specified under Article 124 of the Labor Code, as amended.

Section 13. 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 order, and/or under any contract or agreement between the workers and employers.

Section 14. 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 (DOLE-CAR) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution.

Section 15. Penal Provisions. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay any of the prescribed increases or adjustments in the new minimum wage rates in accordance with this Order shall be subject to the penal provisions of RA 8188.

Section 16. Prohibition Against Injunction. No preliminary or permanent injunction or temporary restraining order maybe issued by any court, tribunal or other entity against any proceedings before the Board.

Section 17. 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.

Section 18. 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.

Section 19. 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 3rd day of March 1997, Baguio City.

With separate dissenting opinion.
(SGD) JESSIE N. PAGARAN

(SGD) MARQUEZ O. GO

Workers' Representative

Employers' Representative

(SGD) ADRIANO M. BIALA

Workers' Representative

(SGD) ARMANDO P. GALIMBA

Vice-Chairman

I dissent on the ff:

Section 1 – salary ceiling

Section 2 – effectivity of COLA integration

(SGD) MA. MIGNON D. DE LEON

Employers' Representative

(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 BOARD
Cordillera Administrative Region
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RULES AND REGULATIONS IMPLEMENTING WAGE ORDER RB-CAR-04

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-04, the following rules are hereby issued for guidance and compliance in the Cordillera Administrative Region.

RULE I
GENERAL PROVISIONS

Section 1. Title. This rules shall be known as the “The Rules Implementing Wage Order Wage Order RB-CAR-04” .

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

- a. “Act” means the Republic Act No. 6727;
- b. “RA 8188” an act increasing and imposing double indemnity for violation of the prescribed wage increases in the wage rates amending for the purpose section twelve of Republic Act numbered sixty-seven twenty-even (RA 6727) otherwise known as the wages rationalization act;
- c. “Order” means Wage Order No. RB-CAR-04;
- d. “Commission or NWPC” refers to the National Wages and Productivity Commission;
- e. “Board” refers to the Regional Tripartite Wages and Productivity Board;
- f. “Agriculture” refers to farming in all its branches and among others, includes 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 farms 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;
- g. “Plantation, Agricultural Enterprise” is one engaged in agriculture with an area of more than twenty four (24) hectares in the locality or which employs at least twenty (20) workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprise.
- h. “Retail Establishment” is one principally engaged in the sale of goods to end users .for personal or household use;
- i. “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;
- j. “Cottage/Handicraft Establishment” is one engaged in an economic endeavour in which the products are primarily done in the home or similar places for profit which requires manual dexterity and craftsmanship and whose capitalization does not exceed P1,500,000.00;
- k. “DOLE-CAR” refers to the Department of Labor and Employment, Cordillera Administrative Region;
- l. “Minimum Wage Rates” refer to the lowest wage rates 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;

- m. "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 distinctions embodied in such wage structure based on the skills, length of service, or other logical bases of differentiation;
- n. "New Business Enterprises" refer to establishments, including non-profit institutions, established within two (2) years from effectivity of the Wage Order based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and Mayor's Office;
- o. "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 7, Rule II hereof, but not to establishments which temporarily closed after the promulgation of the said Order;
- p. "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location.

For purposes of determining eligibility for exemption, establishments under the same owner/s but separately registered with the Securities Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.

- q. "Capital" refers to paid-up capital at the end of the last full accounting period~ in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships;
- r. "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 2A, Rule III of this Guidelines.
- s. "Full Accounting Period" refers to a period of twelve (12) months or one year of business operations;
- t. "Deficit" refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, dividend distribution, prior period adjustments and other capital adjustments;
- u. "Stock Corporation" refers to one organized for profit and issues shares of stock to its members;
- v. "Non-stock Non-Profit Organization" refers to one organized principally for public purposes such as charitable, educational, cultural or similar purposes and does not issue share of stock to its members;
- w. "Partnership" refers to an association of two or more persons who bind themselves to contribute money, property or industry to a common fund with the intention of dividing the profits among themselves or for the exercise of a profession;
- x. "Single Proprietorship" refers to a business unit owned and controlled by only one person;
- y. "Cooperative" refers to a duly registered association of persons who voluntarily join together to form a business establishment which they themselves own, control and patronize and which may fall under any of the following types: credit, consumers, producers, marketing, service of multi-purpose;
- z. "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 allowance, profit sharing payments, premium payments, 13th month pay and other monetary benefits which are not considered as part of or integrated into the regular salary of the worker on the date the wage became effective.
- z.1 "Special Workers" refer to apprentices, learners and handicapped workers as provided by Title II, Book Two of the Labor Code.

RULE II WAGE INCREASE

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 ONE HUNDRED SEVENTY PESOS (P170.00) per day regardless of their position, designation or status and irrespective of the method by which their wages are paid.

Section 2. *Amount and Effectivity of Increase.* Workers and employees covered in the preceding section shall receive a basic wage increase in the amount of TEN PESOS (PIO.00) per day which shall be given in a staggered basis as follows:

AMOUNT	EFFECTIVITY
PS.00/ day	May 01, 1997
P5.00/ day	July 01, 1997

Section 3. *COLA Integration.* The prevailing Cost of Living Allowance (COLA) in the amount of P17.00 per day in the provinces of Abra, Benguet, Mt. Province, and the City of Baguio and P8.00 per day in the provinces of Ifugao, Kalinga and Apayao shall be integrated to the basic pay of all workers receiving the said COLA upon the effectivity of the Order.

In cases where some establishments have already integrated the COLA applicable to them prior to the effectivity of the Order the same shall be considered as compliance to the integration provision of this Order. Those who have integrated the same but only partially shall integrate the balance thereof in accordance with the provisions of the Order.

Section 4. *Daily Minimum Wage Rates.* Upon effectivity of the wage increases provided under the Order, the Minimum Wage Rates in CAR shall be as follows:

Sector/Industry	Baguio City		Abra/Benguet		Mt. Province		Kalinga Apayao/Ifugao	
	May 1	July 1	May 1	July 1	May 1	July 1	May 1	July 1
NON-AGRICULTURE	134.00	139.00	133.00	138.00	132.00	137.00	123.00	128.00
AGRICULTURE								
Plantation w/ annual gross sales of P5M or more	121.00	126.00	120.00	125.00	119.00	124.00	111.00	116.00
Plantation w/ annual gross sales of less than P5M	116.00	121.00	115.00	120.00	114.00	119.00	106.00	111.00
Non-Plantation	96.50	101.50	95.50	100.50	94.50	99.50	87.50	92.50
COTTAGE/HANDICRAFT								
Employing more than 30 workers	112.00	117.00	111.00	116.00	110.00	115.00	101.00	106.00
Employing less than 30 workers	110.00	115.00	109.00	114.00	108.00	113.00	99.00	104.00
PRIVATE HOSPITALS	130.00	135.00	129.00	134.00	128.00	133.00	119.00	124.00
RETAIL/SERVICE INCLUDING HOTEL AND RESTAURANT								
Employing more than 15 workers	134.00	139.00	129.00	134.00	128.00	133.00	119.00	124.00
Employing 11 to 15 workers	130.00	135.00	129.00	134.00	128.00	133.00	119.00	124.00
Employing 10 and below	99.00	104.00	98.00	103.00	97.00	102.00	88.00	93.00
Business firms with capitalization of not more than half million pesos and employing not more than 20 workers								
NON-AGRICULTURE	124.00	129.00	123.00	128.00	122.00	127.00	113.00	118.00
AGRICULTURE PLANTATION PRODUCTS OTHER THAN SUGAR	111.00	116.00	110.00	115.00	109.00	114.00	101.00	106.00
PRIVATE HOSPITALS	120.00	125.00	119.00	124.00	118.00	123.00	109.00	114.00
RETAIL/SERVICE INCLUDING HOTELS AND RESTAURANTS								
Employing more than 15 workers	124.00	129.00	119.00	124.00	118.00	123.00	109.00	114.00
Employing 11 to 15 workers	120.00	125.00	119.00	124.00	118.00	123.00	109.00	114.00
Employing 10 and below	99.00	104.00	98.00	103.00	97.00	102.00	88.00	93.00

Without prejudice to existing company practices, agreements or policies, the following suggested formula maybe used as guides in determining the Equivalent Monthly Rates:

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

$$\begin{aligned}
 \text{EMR} &= \frac{\text{ADR} \times 391.5}{12} \\
 &= 302.0 - \text{ordinary working days} \\
 &\quad 18.0 - 9 \text{ regular holidays} \times 20\% \\
 &\quad 2.6 - 1 \text{ regular holiday falling on last Sunday of August} \times 200\% + (30\% \text{ of } 200) \\
 &\quad 66.3 - 51 \text{ rest days} \times 130\% \\
 &\quad 2.6 - 2 \text{ special days} \times 130\% \\
 &= 391.5 \text{ days Total Equivalent number of days}
 \end{aligned}$$

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

$$\begin{aligned}
 \text{EMR} &= \frac{\text{ADR} \times 365}{12} \\
 &= 302 - \text{ordinary working days} \\
 &\quad 2 - \text{special day} \\
 &\quad 51 - \text{rest days} \\
 &\quad 10 - \text{regular holidays} \\
 &= 365 \text{ days Total Equivalent number of days}
 \end{aligned}$$

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

$$\begin{aligned}
 \text{EMR} &= \frac{\text{ADR} \times 314.6}{12} \\
 &= 302.0 - \text{ordinary working days} \\
 &\quad 2.6 - 2 \text{ special days (if worked)} \times 130\% \\
 &\quad 10.0 - \text{regular days} \\
 &= 314.6 \text{ days Total equivalent number of days}
 \end{aligned}$$

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

$$\begin{aligned}
 \text{EMR} &= \frac{\text{ADR} \times 262.6}{12} \\
 &= 250.0 - \text{ordinary days} \\
 &\quad 2.6 - 2 \text{ special days (if worked)} \times 130\% \\
 &= 262.6 \text{ days Total Equivalent number of days}
 \end{aligned}$$

*where: EMR is Equivalent Monthly Rate
ADR is Applicable Daily Wage Rate

Note: Using the above indicated factors (a factor representing number of days as multiplier) i 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/.) percent rest day premium pay has been integrated in factor 391.5 for all the Sundays/rest days in a year including the last Sunday of August and in factors 314.6 and 262.6 for the two special days (November 1 and December 31) under Executive Order No. 203.

Section 5. Creditable Wage Increase

- a. Wage increases granted in an organized establishments 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 unorganized establishments, wage increases granted by the employer within six (6) months prior to the effectivity of the Order shall be credited as compliance.

In the event that increases given under (a) and (b) are less than the prescribed adjustment, the employer shall pay the differences. Such increases shall not include anniversary increases, merit increases and those resulting from the regularization or promotion of employees.

Section 6. *Application to Private Educational Institutions.* In the case of private educational institutions, those who will increase their tuition fees beginning School Year 1997-1998 shall comply with the prescribed wage increase under the Order as follows:

1. P5.00 per day effective June 01, 1997 and the other P5.00 per day effective July 01, 1997;
2. In cases where the tuition fee increase is effected during the School Year 1997-1998 but after July 01, 1997, the total amount of P10.00 per day increase shall be implemented effective on the date of the tuition fee increase.
3. Schools which will not increase their tuition fees during School Year 1997-1998 shall pay their covered workers the wage increase prescribed in the Order beginning School Year 1998-1999.

But in all cases, the application of the COLA integration to the basic wage as provided under Section 2 of the Order, shall be implemented by all schools upon effectivity of the Order.

Section 7. *Application to Establishments on Suspended Operations.* In the case of establishments whose operations are suspended before or 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 the date of effectivity of the Order. Provided however, that the establishment suffered a capital impairment of 50% or more for the last two (2) accounting periods and interim period, if any, prior to the date of suspension of operations.

Deferment may be granted upon application with and as determined by the Board in accordance with this Rules. For this purpose, the following documents shall be submitted together with the application which shall be filed not later than sixty (60) days from the date of publication of this Rules.

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 circular giving general notice of the filing of the application to all the workers in the establishment. The proof of notice, which maybe 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 the 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 (2) full accounting periods and interim period, if any, prior to the date of suspension of operations.

Should the operations of the establishment which has been granted deferment remain suspended beyond twelve (12) months from date of 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, the establishment shall file a notice with the Board that it has resumed operations.

Section 8. *Application to Contractor.* In contracts for construction projects and for security, janitorial and other similar services, the wage increase herein provided shall be borne by the principals or clients of the construction/service contractors. In the event, however, that the principal or client fails to pay the prescribed increase, the construction/service contractor shall be jointly liable with the principal or client.

Section 9. *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 prescribed under the Order for working hours which shall not 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. $AMW / \text{previous applicable minimum wage} \times 100\% = \% \text{ Wage increase}$
2. $\text{Existing rate/piece} \times \% \text{ increase} = \text{increase in rate/piece}$
3. $\text{Existing rate/piece} + \text{increase in rate/piece} = \text{adjusted rate per piece}$

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

*where: APIW is Applicable Minimum Wage Rate

Section 10. *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 of 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 the place where they are stationed.

Section 11. *Apprentices, Learners, Handicapped Workers.* Persons employed as special workers like apprentices, learners and handicapped workers under Title II, book Two of the Labor Code shall be entitled to a wage rate which shall not be less than Seventy Five Percent (75%) of the minimum wage rates prescribed in the Order.

Section 12. *Transfer of Personnel.* The transfer of personnel from one province or region to another shall not be a valid ground for the reduction of the wage rate being enjoyed by the worker prior to the transfer.

Section 13. *Basis of Minimum Wage Increase.* The minimum wage increase prescribed in the order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

RULE III EXEMPTIONS

Section 1. *Automatic Exemption.* Exempted from the provisions of the Order are household or domestic helpers and persons employed in the personal service of another including family drivers.

Section 2. *Exemptible Establishments.* 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
1. For Stock Corporations/Cooperatives

- a. When deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order amounts to 20% or more of the paid-up capital for the same period; or
 - b. When an establishment registers capital deficiency i.e., negative stockholders' equity as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
2. For Single Proprietorships/Partnerships
- a. Single proprietorships/partnerships operating for at least two (2) years may be granted exemption:
 - a.1 When the net accumulated losses for the last two (2) full accounting periods and interim period, if any, preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review, or
 - a.2 When an establishment registers capital deficiency i.e., negative net worth as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
 - b. Single proprietorships/partnerships operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review.
3. For Non-stock Non-profit Organizations
- a. Non-stock non-profit organizations operating for at least two (2) years may be granted exemption:
 - a.1 When the net accumulated losses for the last two (2) full accounting periods and interim period, if any, preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review, or
 - a.2 When an establishment registers capital deficiency i.e., negative net worth as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
 - b. Non-stock non-profit organizations operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to 20% or more of the full balance/members' contribution at the beginning of the period under review.

B. New Business Enterprises

Exemption may be granted to New Business Enterprises established within two (2) years from effectivity of the Order, classified under any of the following:

- 1. Agricultural establishments whether plantation or non-plantation.
- 2. Establishments with total assets after financing of five million pesos (P5,000,000.00) and below.

Section 3. *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 Section 2, Rule III of this Rules.

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 as follows:

- a. For corporations/cooperatives

When deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order amounts to less than 20% of the paid-up capital of the same period.

b. For single proprietorships/partnerships

When the net accumulated losses for the period under review amounts to at least 15% but less than 20% of the total invested capital at the beginning of the period under review.

c. Non-stock non-profit organizations

When the net accumulated losses for the period under review amounts to at least 15% but less than 20% of the fund balance/members' contribution at the beginning of the period under review.

Section 4. *Procedures on Exemption*

A. Filing of Application

1. An application, in three (3) legible copies may be filed with the Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail.

The date of mailing shall be deemed as the date of filing.

2. Applications for all categories shall be filed not later than sixty (60) days from publication of the implementing rules of the Order.

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

3. The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 5, Rule III of this Rules. In the case of an application with incomplete supporting documents, the applicant shall be notified to complete the same within ten (10) days from receipt of the notice, otherwise, the application shall be dismissed.

- B. Filing of Opposition. Any worker or, if unionized, the union in the applicant establishment, may file with the appropriate Board within fifteen (15) days from receipt of the notice of the filing of the application, an opposition to the application for exemption stating the reasons why the same should not be approved, furnishing the applicant a copy thereof. The fifteen (15) day period shall run only upon receipt of complete supporting documents. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

- C. Filing of Motion for Reconsideration. The aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE – CAR.

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.

D. Filing of Appeal to the Commission

1. 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) days from the date of receipt of the decision.

The appeal, with proof of service to the other party, shall be accompanied with a memorandum of appeal which shall state the date appellant received arguments in support thereof.

The appeal shall not be deemed perfected if it is filed with any office or entity other than the Board.

2. Grounds for Appeal – An appeal may be filed on the following grounds:

- a. Non-conformity with the prescribed guidelines and/or procedures on exemption;
 - b. Prima facie evidence of grave abuse of discretion on the part of the Board; or
 - c. Questions of law.
3. Opposition – The appellee may file with the Board his reply or opposition to the appeal within ten (10) days from receipt of the appeal. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.
 4. Transmittal or records – Within five (5) days upon receipt of the reply or opposition of the appellee or after the expiration of the period to file the same, the entire records of the case which shall be consecutively numbered, shall be transmitted by the Board to the Commission.

Section 5. *Supporting Documents.* The following supporting documents shall be submitted together with the application.

For All Categories of Exemption

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.

A. For Distressed Establishments

1. For corporations, cooperatives, single proprietorships, partnerships, non-stock non profit organizations
 - a. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last two (2) full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriate government agency
 - b. Audited interim quarterly financial statements (together with the Auditor's opinion and the notes thereto) for the period immediately preceding the effectivity of the Order.

Submission of audited interim financial statements shall be in accordance with the following schedule:

EFFECTIVITY DATE OF WAGE ORDER	INTERIM STATEMENTS REQUIRED
First quarter of year	No interim statements only the audited statement for the last two full accounting periods
Second quarter of year	
Month 1	None; same as first quarter
Month 2	None; same as first quarter
Month 3	None; same as first quarter
Third quarter of year	
Month 1	First quarter audited statement
Month 2	First quarter audited statement
Month 3	First & second quarters audited statements
Fourth quarter of year	
Month 1	Second quarter audited statement
Month 2	Second quarter audited statement
Month 3	First, second and third quarter audited statements

B. For New Business Enterprises

1. Affidavit from employer regarding the following:
 - a. Principal economic activity

- b. Date of registration with appropriate government agency
 - c. Amount of total assets
2. Certificate of registration from the appropriate government agency

Section 6. *Effect of Filing of an Application for Exemption.* Upon receipt of an application with complete documents, the Board shall take the following steps:

- a. Notify the DOLE – CAR of the pendency of the application requesting that action on any complaint for non-compliance with the Order be deferred pending resolution of the application by the Board.
- b. Request the DOLE – CAR to conduct ocular inspection, if necessary, of establishments applying for exemption to verify number of workers, nature of business and other relevant information.
- c. Act and decide on the application for exemption with complete documents, as much as practicable, within 45 days from the date of filing. In case of contested application, the Board may conduct conciliation or call hearings thereon.
- d. Transmit the decision of the Board to the applicant establishment, the workers or president of the union, if any, and the Commission, for their information, and the DOLE-CAR concerned, for their implementation/enforcement.

The Board may create a Special Committee with one representative from each sector to expedite processing of application for exemption.

Section 7. *Application for Projects/Branches/Divisions.* Where the exemption being sought is for a particular project/branch/division not separately registered and licensed, the consolidated audited financial statements of the establishment shall be used as basis for determining its distressed condition.

Section 8. *Distressed Principal.* Exemption granted to a distressed principal shall not extend to its contractor in case of contact(s) for construction, security, janitorial and/or similar services with respect to the employees of the latter assigned to the former.

Section 9. *Effect of Disapproved Application.* In the event that the application for exemption which has been filed is not granted, covered workers shall be paid the mandated wage increase as provided for under the Order plus an interest of one (1%) percent per month retroactive to the date of effectivity of the Order.

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 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.

$$\frac{\text{Previous Minimum Wage and COLA}}{\text{Actual Salary}} \times \text{Prescribed wage increase} = \text{Amount of wage adjustment due to distortion}$$

Section 2. *Settle 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 (CBA), 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 endeavour to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board (NCMB) 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.

RULE 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 DOLE-CAR 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 under any contract or agreement between the workers and employers and employer practices or policies.

Section 3. *Penal Provision.* Pursuant to the provisions of Republic Act No. 8188 amending Sec. 12 of RA 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 of not less than P25,000 or more than P100,000 or imprisonment of not less than two (2) years or more than four (4) years or both such fine and imprisonment at the discretion of the deciding authority. Provided, that any person convicted under this act shall not entitled to the benefits provided under the Probation of Law.

If the violation is committed by a corporation, trust, firm, partnership, association or other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, chief executive officers, general manager, managing director or partner.

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

Section 5. *Effect on Other Issuance.* The provisions of existing laws and decrees on wages and their Implementing Rules and Regulations and issuance 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 on March 24, 1997.

Done this 3rd day of March 1997 at Baguio City, Philippines.

(Took no part.)

JESSIE N. PAGARAN
Workers' Representative

(SGD) MARQUEZ O. GO
Employers' Representative

(SGD) ADRIANO M. BIALA
Workers' Representative

(SGD) MA. MIGNON D. DE LEON
Employers' Representative

(SGD) ARMANDO P. GALIMBA
Vice-Chairman

(SGD) JUAN B. NGALOB
Vice-Chairman

(SGD) ALEX E. MARAAN
Chairman

Approved this 6th day of May 1997, subject to the notations contained hereof.

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

Notations to Rules Implementing Wage Order RB-CAR-04

1. Section 2B, Rule III, first paragraph shall be modified to read as follows:
"Exemption may be granted to NBEs established outside Export Processing Zones (EPZs) within two years

from effectivity of the Orderxxx.”

2. *The table of Daily Minimum Wage Rates under Section 4, Rule II shall include a column to reflect the minimum wage rates effective March 24, 1997 as a result of the integration of the COLA of P17.00/P8.00 per day as per Section 2 of the Wage Order and Section 3, Rule II of the Implementing Rules.*