

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Cordillera Administrative Region
206 Naguilian Road, Corner Sofia de Veyra Street

WAGE ORDER RB-CAR-05
GRANTING COST OF LIVING ALLOWANCE

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 hikes in the prices of goods and services and transport fare, a situation greatly aggravated by our currency depreciation which further eroded the purchasing power of the peso;

WHEREAS, the Regional Tripartite Wages and Productivity Board - Cordillera Administrative Region (RTWP-CAR) motu proprio conducted studies, sectoral consultations and public hearing 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 studies, sectoral consultations and public hearing conducted indicate a need to help the private sector workers for them to be able to cope up with the rising cost of living;

WHEREAS, cognizant of all the above conditions, the Board has determined to grant a Cost of Living Allowance (COLA) to the private sector workers in the region but in a manner which will not hamper the growth of business and industry particularly the small and medium enterprises;

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 shall be entitled to a daily Cost of Living Allowance (COLA) in the amount of SIXTEEN PESOS (P16.00), which shall be given on a staggered basis as follows:

- a. P8.00 per day effective December 18, 1997; and
- b. P8.00 per day effective June 8, 1998.

Section 2. Creditable Wage Increase.

- a. Wage increases or COLA granted in an organized establishment within three (3) months prior to the effectivity of this Order shall be credited as compliance with the prescribed COLA 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 or COLA 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 3. Application to Private Educational Institutions. In the case of private educational institutions, the COLA prescribed herein shall be effected on June 8, 1998 regardless of whether or not they will increase their tuition fees during School Year 1998-1999.

Section 4. 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 COLA 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 5. Application to Contractors. In contracts for construction projects and for security, janitorial and other similar services allowed under Department Order No. 10, Series of 1997 of the Secretary of Labor and Employment, the COLA 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 same, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 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 COLA 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 7. Apprentices, learners, handicapped workers. Apprentices, learners and handicapped workers shall be entitled to the COLA in proportion to the salary rates they receive which in no case shall be lower than seventy five (75%) percent of the minimum wage.

Section 8. 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 in branches or agencies of establishments in or outside the Region shall be those applicable in the 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. 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 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.

Section 12. Complaints for Non-Compliance. Complaints for noncompliance with the COLA 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 which maybe undertaken against those who fail to comply.

Section 13. Penal Provisions. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed cost of living allowance in accordance with this Order shall be subject to the

penal provisions of RA 8188.

Section 14. 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 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.

Section 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.

Section 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 27th day of November 1997, Baguio City

(SGD) JESSIE N. PAGARAN
Worker's Representative

(SGD) MARQUEZ O. GO
Employers' Representative

(SGD) ADRIANO M. BIALA
Worker's Representative

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

(SGD) ARMANDO P. GALIMBA
Vice-Chairman

(Took no part)
(SGD) JUAN B. NGALOB
Vice-Chairman

(SGD) DANILO T. BASA
Chairman

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Department of Labor and Employment
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RULES AND REGULATIONS IMPLEMENTING WAGE ORDER RB-CAR-05

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-05, the following rules are hereby issued for guidance and compliance by all concerned in the Cordillera Administrative Region.

RULE I
GENERAL PROVISIONS

Section 1. Title. This rules shall be known as the "The Rules Implementing Wage Order RB-CAR-05".

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

- a. "RA 6727" An act to rationalize wage policy determination by establishing the mechanism and proper standards for it and thereby amending some provisions of the Labor Code of the Philippines;
- b. "RA 8188" an act increasing the penalty 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 hundred twenty-seven (RA 6727) otherwise known as the Wage Rationalization Act;
- c. "Order" means Wage Order No. RB-CAR-05;
- 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 endeavor 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. " 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;
- n. "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;

- o. "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.

- p. "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;
- q. "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 2 A, Rule I of this Guidelines.
- r. "Full Accounting Period" refers to a period of twelve (12) months or one year of business operations;
- s. "Deficit" refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings dividend distributions, prior period adjustments and other capital adjustments;
- t. "Stock Corporation" refers to one organized for profit and issues shares of stock to its members;
- u. "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;
- v. "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;
- w. "Single Proprietorship" refers to a business unit owned and controlled by only one person;
- x. "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 or multi-purpose;
- y. "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, 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. "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 Cost of Living Allowance (COLA) prescribed under the Order shall apply to all private sector workers and employees in the Cordillera Administrative Region (CAR) 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 Cost of Living Allowance (COLA) in the amount of SIXTEEN PESOS (P16.00) per day which shall be given on a staggered basis as follows:

AMOUNT	EFFECTIVITY
P8.00/ day	December 18, 1997
P8.00/ day	June 08, 1998

Section 3. 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	
	18-Dec-97 Basic+COLA	8-Jun-98 Basic+COLA	18-Dec-97 Basic+COLA	8-Jun-98 Basic+COLA	18-Dec-97 Basic+COLA	8-Jun-98 Basic+COLA	18-Dec-97 Basic+COLA	8-Jun-98 Basic+COLA
NON-AGRICULTURE	139+8=147	139+16=155	138+8=146	138+16=154	137+8=145	137+16=153	128+8=136	128+16=144
AGRICULTURE								
a. Plantation with annual gross sales of Sales of P5M or more	126+8=134	126+16=142	125+8=133	125+16=141	124+8=132	124+16=140	116+8=124	116+16=132
b. Plantation with annual gross sales of Less than P5M	121+8=129	121+16=137	120+8=128	120+16=136	119+8=127	119+16=135	111+8=119	111+16=127
c. Non-plantation	101.5+8=109.5	101.5+16=117.5	100.5+8=108.5	100.5+16=116.5	99.5+8=107.5	99.5+16=115.5	92.5+8=100.5	92.5+16=108.5
COTTAGE/HANDICRAFT								
a. Employing more than 30 workers	117+8=125	117+16=133	116+8=124	116+16=132	115+8=123	115+16=131	106+8=114	106+16=122
b. Employing less than 30 workers	115+8=123	115+16=131	114+8=122	114+16=130	113+8=121	113+16=129	104+8=112	104+16=120
PRIVATE HOSPITAL	135+8=143	135+16=151	134+8=142	134+16=150	133+8=141	133+16=149	124+8=132	124+16=140
RETAIL/SERVICE INCLUDING HOTEL AND RESTAURANT								
a. Employing more than 15 workers	139+8=147	139+16=155	134+8=142	134+16=150	133+8=141	133+16=149	124+8=132	124+16=140
b. Employing 11 to 15 workers	135+8=143	135+16=151	134+8=142	134+16=150	133+8=141	133+16=149	124+8=132	124+16=140
c. Employing 10 and below	104+8=112	104+16=120	103+8=111	103+16=119	102+8=110	102+16=118	93+8=101	93+16=109
Business firms with capitalization of not more than half million pesos and employing not more than 20 workers								
NON-AGRICULTURE	129+8=137	129+16=145	128+8=136	128+16=144	127+8=135	127+16=143	118+8=126	118+16=134
AGRICULTURE PLANTATION PRODUCTS OTHER THAN SUGAR	116+8=124	116+16=132	128+8=136	115+16=131	114+8=122	114+16=130	106+8=114	106+16=122
PRIVATE HOSPITAL	125+8=133	125+16=141	124+8=132	124+16=140	123+8=131	123+16=139	114+8=122	114+16=130
RETAIL/SERVICE INCLUDING HOTEL AND RESTAURANT								
a. Employing more than 15 workers	129+8=137	129+16=145	124+8=132	124+16=140	123+8=131	123+16=139	114+8=122	114+16=130
b. Employing 11 to 15 workers	125+8=133	125+16=141	124+8=132	124+16=140	123+8=131	123+16=139	114+8=122	114+16=130
c. Employing 10 and below	104+8=112	104+16=120	103+8=111	103+16=119	102+8=110	102+16=118	93+8=101	93+16=109

Section 4. Creditable Wage Increase.

- a. Wage increases or COLA 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 or COLA 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 5. Application to Private Educational Institutions. In the case of private educational institutions, the COLA prescribed in the Order shall be effected on June 08, 1998 regardless if whether or not they will increase their tuition fees during School Year 1998-1999.

Section 6. 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 COLA 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 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 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 7. Application to Contractor. In contracts for construction projects and for security, janitorial and other similar services allowed under Department Order No. 10, Series of 1997 of the Secretary of Labor and Employment, the COLA provided in the Order 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 COLA, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 8. 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 9. 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.

R U L E III EXEMPTIONS

Section 1. Automatic Exemption. Household or domestic helpers and persons employed in the personal service of another including family drivers are not covered by this Order.

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, immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period under review, or
 - a.2 When an establishment registers capital deficiency i.e., negative fund balance/members' contribution 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 outside Export processing Zones (EPZs) 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 preceding the effectivity of the Order 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 the decision, the grounds relied upon and the 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 of 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

- I. 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	INTERIMS 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 First quarter audited 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

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/enforce-ment.

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 contract(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 COLA as provided for under the Order plus simple interest of one (1%) percent per month retroactive to the date of effectivity of the Order.

R U L E IV SPECIAL PROVISIONS

Section 1. Complaints for Non-Compliance. Complaints for non-compliance with the COLA 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 be entitled to the benefits provided under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: Provided, that payment of indemnity shall not absolve the employer from criminal liability imposable under this Act.

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 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 on December 18, 1997.

Done this 27th day of November 1997 at Baguio City, Philippines.

(SGD) 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

(took no part)
JUAN B. NGALOB
Vice-chairman

(SGD) DANILO T. BASA
Chairman

Approved this 23rd day of February 1998 subject to the notations below:

(SGD) CRESENCIO B. TRAJANO
Secretary

NOTATIONS TO THE RULES IMPLEMENTING WAGE ORDER No. CAR-5

1. *Section 1, Rule II (Coverage) shall be revised as follows:*

“The Cost of Living Allowance (COLA) prescribed under the Order xxx xxx wages are paid, except household or domestic helpers and persons employed in the personal service of another including family drivers.”

2. *Reference to household or domestic helpers and persons employed in the personal service of another including family drivers in Section I, Rule III shall be deleted.*