



# Wage Order No. RB 1-14

## Setting a New Minimum Wage Rates for Private Sector Employees/Workers In Region I

WHEREAS, pursuant to Republic Act No. 6727, the Regional Tripartite Wages and Productivity Board - Region I, is mandated to determine and fix the minimum wages applicable to all private sector workers and to periodically assess the same vis-à-vis the socio-economic conditions prevailing in the Region;

WHEREAS, as a result of the petition filed seeking for a wage adjustment in order to restore the lost purchasing power of the peso, the Board, in accordance with the Rules of Procedures on Minimum Wage Fixing, conducted public hearings on the wage issue in Dagupan City on December 9, 2010 for the stakeholders from the provinces of La Union and Pangasinan, and in Laoag City on December 10, 2010 for the stakeholders from the provinces of Ilocos Sur and Ilocos Norte, respectively;

WHEREAS, after a thorough evaluation of the socio-economic factors and taking into consideration the results of the public hearings, the Board deemed it necessary to restore the lost purchasing power of the peso without impairing the viability of establishments which were adversely affected by natural calamities and the effect of the recent global financial crisis;

WHEREAS, the various industry sectors in the Region have registered different economic performances thus necessitating variable wage adjustments;

WHEREAS, coherent with the government's policy of alleviating poverty and achieving higher level of productivity to preserve and generate jobs and to augment the income of the workers, there is a need to strengthen the capacities of business enterprises in order to be competitive through productivity improvement and gain sharing mechanisms;

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 of Region I hereby issues this Wage Order.

### Section 1. AMOUNT OF WAGE INCREASE

Upon the effectivity of this Wage Order, the daily minimum wage rate of workers and employees in the private sector in the Region shall be adjusted as follows:

The existing TEN PESOS (Php10.00) Cost-Of-Living-Allowance (COLA) under Wage Order No. RB1-13 shall be integrated into the basic wage; and

The amount of FIVE PESOS (Php 5.00) or EIGHT PESOS (Php 8.00) shall be added in the daily basic wage of all concerned workers depending on the economic performance of the various industry sectors.

*[Handwritten signatures and initials]*

**Section 2. NEW DAILY MINIMUM WAGE RATES**

Upon effectivity of this Wage Order, the daily minimum wage rates of workers and employees in the region shall now be as follows:

INDUSTRY/SECTOR	WAGE ORDER NO. RB1-13		WAGE ORDER NO. RB1-14	
	Basic	COLA*	Amount of Increase in the Daily Basic Wage	New Minimum Wage Rates
<b><u>NON-AGRICULTURE</u></b>				
1. Banks and Financial Intermediaries	P230.00	10.00	8.00	248.00
2. Construction	230.00	10.00	8.00	248.00
3. Real Estate, Renting and Business Activities	230.00	10.00	8.00	248.00
4. Commercial Fishing	230.00	10.00	8.00	248.00
5. Health and Social Work				
> Level 4 Hospitals	230.00	10.00	8.00	248.00
> Level 3 Hospitals	218.00	10.00	8.00	236.00
> Levels 1 & 2 Hospitals & Clinics	210.00	10.00	8.00	228.00
6. Private Educational Institutions	230.00	10.00	8.00	248.00
7. Transport, Storage and Communication	230.00	10.00	8.00	248.00
8. Electricity, Gas and Water	230.00	10.00	8.00	248.00
9. Manufacturing				
> Medium/Large	230.00	10.00	8.00	248.00
> Small	210.00	10.00	8.00	228.00
10. Wholesale and Retail Trade, Repair of Motor Vehicle, Motorcycle and Personal and Household Goods				
> Wholesale, Large & Medium	230.00	10.00	8.00	248.00
> Small	210.00	10.00	8.00	228.00
11. Other Community, Social and Personal Service Activities				
> Community and Social Services	230.00	10.00	8.00	248.00
> Personal Service Activities - Small/Medium/Large	210.00	10.00	8.00	228.00
12. Mining and Quarrying	230.00	10.00	8.00	248.00

\*Integrated into the basic wage as per this Wage Order

Handwritten signatures and initials are present at the bottom of the page, including a large signature on the left, a signature in the center, and a signature on the right.

INDUSTRY/SECTOR	WAGE ORDER NO. RB1-13		WAGE ORDER NO. RB1-14	
	Basic	COLA*	Amount of Increase	New Minimum Wage Rates
13. Hotel and Restaurants > Small, Medium/Large	210.00	10.00	8.00	228.00
<b><u>AGRICULTURE</u></b>				
14. Plantation	210.00	10.00	8.00	228.00
15. Non-Plantation	185.00	10.00	5.00	200.00
<b><u>MICRO ESTABLISHMENTS</u></b>				
16. Cooperative	210.00	10.00	8.00	228.00
17. Manufacturing	185.00	10.00	5.00	200.00
18. Hotel and Restaurant	185.00	10.00	5.00	200.00
19. Wholesale and Retail Trade, Repair of Motor Vehicle, Motor Cycle and Personal and Household Goods	185.00	10.00	5.00	200.00
20. Other Community, Social and Personal Services Activities > Personal Service Activities	185.00	10.00	5.00	200.00
21. Small Municipal Fishing	185.00	10.00	5.00	200.00

\*Integrated into the basic wage as per this Wage Order

**SECTION 3. MINIMUM WAGE RATES APPLICABLE TO BUSINESS ESTABLISHMENTS WITH MULTIPLE BUSINESS ACTIVITIES:**

The minimum wage rates applicable to business establishments performing multiple business activities not separately registered with any appropriate government agency shall be determined in accordance with their dominant business activity based on their gross revenue.

**SECTION 4. COVERAGE**

All private sector workers and employees receiving the minimum wage rates in the Region are covered by the provisions of this Wage Order regardless of their position, designation or status of employment and irrespective of the method of their wages are paid.

Not covered by this Wage Order are household or domestic helpers, persons employed in the personal service of another including family drivers; and workers and employees of registered Barangay Micro Business Enterprises (BMBE) with Certificates of Authority pursuant to Republic Act 9178.

**SECTION 5. BASIS OF MINIMUM WAGE**

The minimum wage rates prescribed under this Order shall be for the normal working hours which shall not exceed eight (8) hours work a day.

**SECTION 6. CREDITABLE WAGE INCREASE**

a. If expressly provided and agreed upon in the Collective Bargaining Agreements,

*Dealing*

*ms*

*[Handwritten signatures and marks]*

wage increases granted by the employers within three (3) months prior to the effectivity of this Order shall be credited as compliance with the minimum wage rates prescribed herein;

- b. Wage increases granted by non-unionized establishments within six (6) months prior to the effectivity of this Order shall also be credited as compliance therewith;
- c. Anniversary wage increases provided in Collective Bargaining Agreements, merit wage increases and those resulting from their regularization or promotion of employees shall not be credited as compliance.

## SECTION 7. WORKERS PAID BY RESULTS

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

## SECTION 8. WAGES OF SPECIAL GROUPS OF WORKERS AND EMPLOYEES

Wages of apprentices and learners shall in no case be less than seventy five percent (75%) of the applicable minimum wage rates prescribed in this Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new prescribed wage rates.

All qualified handicapped workers shall receive the full amount of increase in this Order pursuant to R.A. 7277.

## SECTION 9. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS

In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2010-2011 shall be considered as compliance with the applicable minimum wage rates prescribed herein. However, payment of any shortfall shall be given starting School Year 2011-2012.

Private Educational Institutions which have not increased their tuition fees for the School Year 2010-2011 may defer compliance with the provisions of this Wage Order until the beginning of the School Year 2011-2012.

In any case, all Private Educational Institutions shall implement the minimum wage rates prescribed herein starting School Year 2011-2012 whether or not they will increase their tuition fees during the said school year.

## SECTION 10. APPLICATION TO CONTRACTORS

In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed adjustments in the wage rates of the workers and employees shall be borne by the principals or clients of the construction/service contractors and the contracts shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed increase or new minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal client.

## SECTION 11. MOBILE AND BRANCH WORKERS/EMPLOYEES

The minimum wage rates of workers and employees, who by the nature of their work have to travel, shall be those that are applicable in the domicile or head office of the employer.

The minimum wage rates of workers and employees working in branches or agencies of establishments within or outside Region 1 shall be those that are applicable in the place where they are stationed.

## SECTION 12. TRANSFER OF WORKERS AND EMPLOYEES

The transfer of workers and employees from one region to another shall not diminish the wage rates being enjoyed by them prior to such transfer. The workers and employees transferred to other regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

## SECTION 13. EXEMPTION

Upon application with and as determined by the Board in accordance with applicable Rules issued by the Commission, distressed establishments (except conditional exemption) and establishments adversely affected by calamity which is applicable only for the provinces of Pangasinan and La Union as defined in the NWPC Guidelines No. 02, series of 2007 may be exempted from the coverage of this Order.

## SECTION 14. DURATION AND EXTENT OF EXEMPTION

Establishments that applied for exemption and found qualified may be granted a partial or full exemption of one (1) year in accordance with the NWPC Guidelines No. 02, series of 2007.

## SECTION 15. EFFECT OF APPLICATION FOR EXEMPTION

An application for exemption duly filed shall have the effect of deferring any action on any complaint for non-compliance with the Order until resolution of the application by the Regional Board.

In case the application for exemption is not approved, covered workers and employees of the applicant-establishment shall be paid the prescribed minimum wage rates under this Order plus one percent (1%) simple interest per month retroactive to the effectivity of this Order.

## SECTION 16. APPEAL TO THE COMMISSION

Any party aggrieved by this Wage Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of this Order.

## SECTION 17. EFFECT OF FILING OF APPEAL

The filing of an appeal does not operate to stay this Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding increase to workers and employees affected by the Order in the event such Order is affirmed.

## SECTION 18. EFFECTS ON EXISTING WAGE STRUCTURE

Where the application of the new minimum wage rates under this Order results in the distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code as amended.

## SECTION 19. COMPLAINTS FOR NON-COMPLIANCE

Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE-Region 1) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to

criminal prosecution which may be undertaken against those who fail to comply.

#### SECTION 20. 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/employees and employers.

#### SECTION 21. PENAL PROVISION

Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in this Order, shall be punished by a fine of not less than P25,000.00 nor more than P100,000.00 or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court pursuant to the provision of Section 12 of R.A. 6727, as amended by R.A. 8188.

#### SECTION 22. 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.

#### SECTION 23. FREEDOM TO BARGAIN

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

#### SECTION 24. PRODUCTIVITY-BASED WAGES

To attain higher levels of productivity for competitiveness, to preserve and generate gainful employment and to augment the wages of workers/employees, business enterprises are strongly encouraged to adopt Productivity Improvement and Gain Sharing Programs.

Business establishments are likewise encouraged to avail of the technical assistance which this Board and/or the National Wages and Productivity Commission provide such as the ISTIV Productivity Improvement Program and other Productivity Improvement Schemes.

#### SECTION 25. REPORTING REQUIREMENT

Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than 31 January 2002 and every year thereafter in accordance with the form prescribed by the Commission.

#### SECTION 26. REPEALING CLAUSE

All orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

#### SECTION 27. IMPLEMENTING RULES

The Board shall prepare the necessary rules to implement this Order subject to the approval of the Secretary of Labor and Employment.

#### SECTION 28. 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 29. EFFECTIVITY**

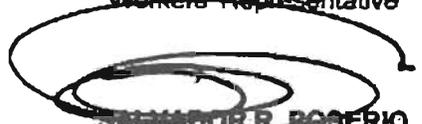
This Wage Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Region.

**UNANIMOUSLY APPROVED** this 20<sup>th</sup> day of December 2010, San Fernando City, La Union, Philippines.

  
**ELISEO P. FLORA**  
Workers' Representative

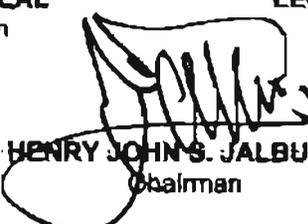
  
**DEMETRIO E. RUIZ, JR.**  
Workers' Representative

  
**JERRY V. PARLAN**  
Employers' Representative

  
**SALVADOR R. POSERIO**  
Employers' Representative

  
**FLORANTE S. LEAL**  
Vice-Chairman

  
**LEONARDO N. QUITOS, JR.**  
Vice-Chairman

  
**HENRY JOHN S. JALBUENA**  
Chairman

Attested by:

  
**EXEQUIEL RONIE A. GUZMAN**  
Board Secretary VI

Published in the \_\_\_\_\_ on \_\_\_\_\_.  
Effectivity Date: \_\_\_\_\_



**RULES IMPLEMENTING WAGE ORDER NO. RB 1-14**

**RULE 1 - GENERAL PROVISIONS**

Pursuant to Section 8, Rule IV, NWPC Guidelines No. 1, Series of 2007, the Amended Rules of Procedure on Minimum Wage Fixing and Section 27 of Wage Order No. RB 1-14, the following rules are hereby issued for the information, guidance and compliance of all concerned.

**SECTION 1. TITLE:**

This Rules shall be known as the "Rules Implementing Wage Order No. RB 1-14."

**SECTION 2. DEFINITION OF TERMS:**

**a. Terms defined under the Implementing Rules of R.A. 6727 and Wage Order No. RB 1-14.**

- (1) "Order" refers to Wage Order No. RB 1-14.
- (2) "Department" refers to the Department of Labor and Employment.
- (3) "Commission" refers to the National Wages and Productivity Commission.
- (4) "Board" refers to the Regional Tripartite Wages and Productivity Board in Region I.
- (5) "Region I" covers the Provinces of Ilocos Norte, Ilocos Sur, La Union and Pangasinan and the Cities of Laoag, Batac, Vigan, Candon, San Fernando, Urdaneta, Dagupan, San Carlos and Alaminos.
- (6) "Wage" shall mean the remuneration or earning, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the same, which is payable by an employer to a worker/employee under a written or unwritten contract of employment for work done or to be done, or for services rendered or to be rendered and includes the fair and reasonable value, as determined by the Secretary of Labor and Employment, of board, lodging or other facilities customarily furnished by the employer to the worker/employee. "Fair and reasonable value" shall not include any profit to the employer, or to any person affiliated with the employer.
- (7) "COLA" refers to the Cost of Living Allowance granted by the Regional Tripartite Wages and Productivity Board-I under Wage Order No. RB1-13.

*(Handwritten mark)*

*(Handwritten signature)*

*(Handwritten signatures and stamps)*

- (8) "Minimum Wage" is the lowest wage rate fixed by the Board that an employer can pay his workers/employees for services rendered on normal working days and hours but does not include profit-sharing payments, premium payments, 13<sup>th</sup> Month pay or other monetary benefits which are not considered as part of or integrated into the regular salary of the workers.
- (9) "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 and 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.
- (10) "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 or 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 incident to or in conjunction with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products.
- (11) "Plantation Agricultural Enterprise" refers to an establishment engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprise."
- (12) "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 skills, length of service, or other logical bases of differentiation.

**b. Terms defined under NWPC Guidelines No. 2, Series of 2007**

- (13) "Distressed Establishments" refer to establishments which meet the criteria enumerated in Section 3A of the NWPC Guidelines No. 2, Series of 2007.
- (14) "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, single proprietorships, and non-profit/non-stock organizations respectively.
- (15) "Full Accounting Period" refers to a period of twelve (12) months or one (1) year of business operations.
- (16) "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.

*Handwritten signature/initials on the right margin.*

Wage Order No. RB 1-14 Page 2 of 23

3

- (17) "Stock Corporation" refers to one organized for profit and issues shares of stock to its members.
- (18) "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 shares of stock to its members.
- (19) "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.
- (20) "Single Proprietorship" refers to a business unit owned and controlled by only one person.
- (21) "Quasi-Banks" refer to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.
- (22) "Paid-up Capital" refers to the total amount of shareholder capital that has been paid by shareholders.
- (23) "Capital Impairment" refers to the diminution of capital due to accumulated losses.
- (24) "Interim Period" refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year).
- (25) "Net loss" refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues.
- (26) "Financial Statement" refers to a written report which quantitatively describes the financial health of a company. This includes the following: balance sheet, income statement, statement of changes in equity, cash flow statement and notes to financial statement.
- (27) "Conservatorship" refers to a remedy resorted to by the Monetary Board in case a bank or quasi-bank is in a state of continuing inability or unwillingness to maintain condition of liquidity deemed adequate to protect the interests of the depositors and creditors. A conservator is appointed to manage the establishment in order to restore its viability.
- (28) "Receivership/Liquidation" refers to a remedy resorted by the Monetary Board in case a bank or quasi-bank is (a) unable to pay its liabilities as they become due in the ordinary course of business; (b) has insufficient realizable assets as determined by the Bangko Sentral ng Pilipinas to meet its liabilities; (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has wilfully violated a cease and desist order under Section 37 that has become final involving acts or transactions which amount to fraud or dissipation of the assets of that institution.
- (29) "Under Corporate Rehabilitation" refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction.

*Alvin J.*

3

**c. Terms defined under the Philippine Standard Industrial Classification (PSIC) of 1994.**

- (30) "Category" refers to business activities listed in the 1994 Philippine Standard Industrial Classification (PSIC).
- (31) "Fishing" refers to commercial and municipal fishing, aquaculture, the gathering of marine products such as seaweeds, sponges, sea shells, pearls, oysters and other shellfish from oceans, seas, lakes, rivers, rice fields and fish farms, and the provision of fishery services on a fee or contract basis.

As defined further under the Bureau of Agricultural Statistics (BAS) - 2000 Philippine Statistical Year Book, Commercial Fishing refers to the sector of fisheries that includes the catching of fish in marine waters with the use of fishing boat of more than three (3) gross tons and beyond seven (7) kilometers shoreline limit.

- (32) "Mining and Quarrying" refers to the extraction and preparation for further processing of solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gas. Underground and surface mines, quarries and wells, and all supplemental activities by beneficiating ores and pre-processing other crude materials are likewise included. In the case of mining enterprises that provide hospitals, schools and other social activities to its employees, these activities, if possible should be shown as separate activities of the enterprise otherwise, these are also considered part of mining. Excluded in this classification are the following: preparation of mining sites and similar work performed by other establishments on a fee basis; bottling of natural springs and mineral water, and crushing and grinding rocks to produce gravel when carried out by units whose activity is not quarrying. It shall be further interpreted in conjunction with R.A. 7942 otherwise known as the Mining Act of 1995.
- (33) "Manufacturing" refers to the mechanical or chemical transformation of organic or inorganic substances into new products, whether the work is performed by power-driven machines or by hand, whether it is done in a factory or in the workers' home, and whether the products are sold at wholesale or retail. Also included are establishments whose activity is the assembly of component parts in factories, such as the assembly of automobiles or electric equipment, the assembly and installation of machinery and equipment in the establishment of the users, and the repair of machinery and equipment belonging to other producers on a contract basis, the bottling of natural springs and mineral water and the crushing and grinding of rocks to produce gravel by enterprises whose main activity is not quarrying. In the case of a manufacturing establishment's purchases of products and sales of these products at the same state as that in which they were purchased, these are treated as a secondary activity of this manufacturing establishment. Similarly, activities carried out in connection with the main manufacturing activity, such as the production of goods in their workshops, the operation of cafeterias or bakeries, the printing of books, pamphlets and postcards, and minor own-account construction are considered secondary activities of manufacturing.

*Aling Jr.*

3

- (34) "Electricity, Gas and Water" refers to the generation, transmission and distribution of electricity to households, industrial, and commercial users; the manufacture and distribution of pipeline gas or natural gas; and the collection, purification and distribution of water.
- (35) "Construction" refers to the activities of establishments engaged mainly in the putting up of buildings and structures and other land improvements. It also includes other related activities such as the provision of technical/engineering services, or the manufacture of construction materials in cases of horizontally integrated construction firms.
- (36) "Wholesale Trade" refers to the resale (sale without transformation) of new and used goods in bulk to retailers; to industrial, commercial institutions or professional users; to other wholesalers; and to the government, wholesale merchants, dealers, industrial distributors, exporters and importers; separate sales offices maintained by manufacturing enterprises and their agents; commodity exchanges; petroleum bulk stations; assemblers, buyers and cooperative marketing associations for the selling of farm products at wholesale price, and includes among others, wholesalers who physically assemble, sort and grade goods in large lots; break bulk, repack and bottle (except in airtight containers) and redistribute in smaller lots; store, refrigerate, deliver and install goods; and engage in sales promotion for customers; and scrap metal, waste and junk dealers and yards.
- (37) "Retail Trade" refers to resale of new and used goods to the general public for personal or household consumption or utilization. A retail establishment that regularly engages in wholesale activities loses its retail character.
- (38) "Service Establishment" is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such.
- (39) "Repair of Personal and Household Goods" refers to repair of personal and household goods when not done in combination with manufacture or wholesale or retail sale of these goods.
- (40) "Hotels and Restaurants" refer to all establishments engaged in selling prepared food and drinks for consumption within its premises including caterers and independently operated dining car services and canteens in plants, offices and clubs. This also includes the provision, on a fee basis, of lodging and camping space and facilities, whether open to general public or restricted to members of a particular organization. Lodging facilities operated by clubs, enterprises and the government are classified under this sector if activities are separated.
- (41) "Transport, Storage & Communication" refers to the transport of passenger and freight by land, water and air, and services related to this operation like the operation of all roads, terminal facilities, piers, airports and the like. It also covers services allied to transport such as forwarding, travel and inspection agencies, ship and aircraft brokers and the operation of warehouse and storage facilities. Communication includes mail express service, telephone, radio and related services.

*Revised*

*3*

- (42) "Financial Intermediation" refers to the activities of banking institutions, non-bank, financial intermediaries and insurance and pension except compulsory, social and activities auxiliary to financial intermediation.
- (43) "Education" refers to the services rendered by private educational institutions under the Department of Education (DepEd), including post-secondary technical schools, colleges and universities under the Technical Education Skills and Development Authority (TESDA) and the Commission on Higher Education (CHED), respectively.
- (44) "Real Estate, Renting, & Business Activities" refer to the renting, management and operation of residential buildings, the subdivision and development of land into building lots, the operation of residential and industrial estates, cemetery development and sale, and the activities of real estate agents, brokers and managers engaged in renting, buying, selling, managing, appraising real estate on a fee or contract basis. Business activities covers the activities of institutions rendering legal services, accounting, auditing and bookkeeping services, computer services, data processing and tabulating services, engineering, architectural development, commercial art work, market research services, advertising services, employment services, detective and protective services, and other business activities.
- (45) "Other Community, Social and Personal Activities" refer to the activities of private profit-making establishments and own-account workers engaged in motion picture production, distribution and projection; radio and television broadcasting; theatrical production and entertainment; and other amusement and recreational services, such as the operation of dance halls and studios, race tracks, circuses, and others. Also included are institutions engaged in the provision of domestic services, laundry, repair, and funeral services. Services rendered by barbershops, beauty shops, and photographic studios are also included under personal services. It also includes activities of membership organizations.

**d. Terms defined under the SMED Council Resolution No. 1, Series of 2003**

- (46) "Assets" refer to all kind of properties, real or personal owned by the establishment and used for the conduct of its business.
- (47) "Micro Establishment" refers to an economic establishment with assets up to P3 Million.
- (48) "Small Enterprise" refers to establishment with assets of more than P3 Million up to P15 Million.
- (49) "Medium Enterprise" refers to establishment with assets of more than P15 Million up to 100 Million.
- (50) "Large Enterprise" refers to establishment with assets of more than P100 Million.

*DR. R. R. R.*

3

**e. Terms defined under DOH A. O. No. 2005 – 0029**

- (51) "Level 1 Hospital" refers to an emergency hospital that provides initial clinical care and management to patients requiring immediate treatment as well as primary care on prevalent diseases in the locality; Clinical services include general medicine, pediatrics, obstetrics and non-surgical gynecology and minor surgery; General administrative service and may provide ancillary services (primary clinical laboratory, first level radiology, pharmacy); Provides nursing care for patients who require minimal category of supervised care for 24 hours or longer;
- (52) "Level 2 Hospital" refers to a non-departmentalized hospital that provides the following: Clinical care and management on the prevalent diseases in the locality; appropriate administrative and ancillary services (secondary clinical laboratory, first level radiology, pharmacy); nursing care provided in the Level 1 Hospital as well as intermediate, moderate and partial category of supervised care for 24 hours or longer. Clinical services include general medicine, pediatrics, obstetrics and gynecology, surgery and anesthesia.
- (53) "Level 3 Hospital" refers to departmentalized hospital that provides the following: clinical care and management on the prevalent diseases in the locality, as well as particular forms of treatment, surgical procedure and intensive care; clinical services provided in Level 2 Hospital as well as specialty clinical care; appropriate administrative and ancillary services (tertiary clinical laboratory, secondary level radiology, pharmacy); nursing care provided in Level 2 Hospital as well as total and intensive skilled care.
- (54) "Level 4 Hospital" refers to teaching and training hospital (with at least one Accredited Residency Training Program for Physicians) that provides the following: clinical care and management on the prevalent diseases in the locality, as well as specialized and sub-specialized forms of treatment, surgical procedure and intensive care; clinical services provided in Level 3 Hospital as well as sub-specialty clinical care; appropriate administrative and ancillary services (tertiary clinical laboratory, third level radiology, pharmacy); nursing care provided in Level 3 Hospital as well as continuous and highly specialized critical care. Included in this category are Birthing Home, Acute Chronic Psychiatric Care Facility and Custodial Psychiatric Care Facility.

*OB/...*

**f. Term defined by the National Internal Revenue Code, Series of 1997**

- (55) "Gross Revenue" refers to total receipt or total sales without any deduction of expenses or cost of sales.

*A*

*3*

*[Handwritten signatures and marks]*

**g. Term defined under the NWPC ISTIV-Productivity Program**

(56) "ISTIV-PAP" is a values-based human resource development approach for improving Quality and Productivity at the enterprise level. It is an acronym which stands for 5 ideal attributes of a productive worker namely: I for Industrious, S for Systematic, T for Time-conscious, I for Innovative and V for strong Values for work.

**h. Term defined under R.A. 6938 (Cooperative Code of the Philippines)**

(57) "Cooperative" refers to 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 and duly registered with the Cooperative Development Authority (CDA).

**i. Term defined under R. A. 9178**

(58) "Barangay Micro Business Enterprise (BMBE)" refers to any business entity or enterprise with a Certificate of Authority granted under Republic Act No. 9178.

**RULE II – NEW DAILY MINIMUM WAGE RATES**

**SECTION 1. AMOUNT OF WAGE INCREASE**

Upon the effectivity of this Wage Order, the daily minimum wage rate of workers and employees in the private sector in the Region shall be adjusted as follows:

The existing TEN PESOS (Php10.00) Cost-of-Living-Allowance (COLA) under Wage Order No. RB1-13 shall be integrated into the basic wage; and

The amount of FIVE PESOS (Php 5.00) or EIGHT PESOS (Php 8.00) shall be added in the daily basic wage of all concerned workers depending on the economic performance of the various industry sectors.

**SECTION 2. NEW DAILY MINIMUM WAGE RATES**

Effective January 20, 2011, the daily minimum wage rates of workers and employees in the region shall now be as follows:

*Alvarez, J.*

2

INDUSTRY/SECTOR	WAGE ORDER NO. RB1-13		WAGE ORDER NO. RB1-14	
	Basic	COLA*	Amount of Increase In the Daily Basic Wage	New Minimum Wage Rates
<b><u>NON-AGRICULTURE</u></b>				
1. Banks and Financial Intermediaries	P230.00	10.00	8.00	248.00
2. Construction	230.00	10.00	8.00	248.00
3. Real Estate, Renting and Business Activities	230.00	10.00	8.00	248.00
4. Commercial Fishing	230.00	10.00	8.00	248.00
5. Health and Social Work				
> Level 4 Hospitals	230.00	10.00	8.00	248.00
> Level 3 Hospitals	218.00	10.00	8.00	236.00
> Levels 1 & 2 Hospitals & Clinics	210.00	10.00	8.00	228.00
6. Private Educational Institutions	230.00	10.00	8.00	248.00
7. Transport, Storage and Communication	230.00	10.00	8.00	248.00
8. Electricity, Gas and Water	230.00	10.00	8.00	248.00
9. Manufacturing				
> Medium/Large	230.00	10.00	8.00	248.00
> Small	210.00	10.00	8.00	228.00
10. Wholesale and Retail Trade, Repair of Motor Vehicle, Motorcycle and Personal and Household Goods				
> Wholesale, Large & Medium	230.00	10.00	8.00	248.00
> Small	210.00	10.00	8.00	228.00
11. Other Community, Social and Personal Service Activities				
> Community and Social Services	230.00	10.00	8.00	248.00
> Personal Service Activities				
- Small/Medium/Large	210.00	10.00	8.00	228.00
12. Mining and Quarrying	230.00	10.00	8.00	248.00
13. Hotel and Restaurants				
> Small, Medium/Large	210.00	10.00	8.00	228.00
<b><u>AGRICULTURE</u></b>				
14. Plantation	210.00	10.00	8.00	228.00
15. Non-Plantation	195.00	10.00	6.00	200.00

d'Almeida, Jo

INDUSTRY/SECTOR	WAGE ORDER NO. RB1-13		WAGE ORDER NO. RB1-14	
	Basic	COLA*	Amount of Increase	New Minimum Wage Rates
<b><u>MICRO ESTABLISHMENTS</u></b>				
16. Cooperative	210.00	10.00	8.00	228.00
17. Manufacturing	185.00	10.00	5.00	200.00
18. Hotel and Restaurant	185.00	10.00	5.00	200.00
19. Wholesale and Retail Trade, Repair of Motor Vehicle, Motor Cycle and Personal and Household Goods	185.00	10.00	5.00	200.00
20. Other Community, Social and Personal Service Activities > Personal Service Activities	185.00	10.00	5.00	200.00
21. Small Municipal Fishing	185.00	10.00	5.00	200.00

\*Integrated into the basic wage as per this Wage Order

### **SECTION 3. COVERAGE**

All private sector workers and employees receiving the minimum wage rates in the Region are covered by the provisions of this Wage Order regardless of their position, designation or status of employment and irrespective of the method of their wages are paid. Not covered by this Wage Order are the following:

- a. Household or domestic helpers and persons employed in the personal service of another including family drivers,
- b. Workers and employees in Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to Republic Act 9178.

### **SECTION 4. BASIS OF MINIMUM WAGE**

The minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

### **SECTION 5. SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY REGIONAL MINIMUM WAGE RATES**

Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly regional minimum wage rates:

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

*of Bling, J.*

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable daily wage rate (ADR)} \times 392.50 \text{ days}}{12}$$

Where 393.50 days =

298	days	-	ordinary working days
24	days	-	11 regular holidays x 200%
67.6	days	-	52 rest days x 130%
3.9	days	-	3 special days x 130%
<hr/>			
393.50	days	-	Total number of days/year

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

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

Where 365 days =

298	days	-	ordinary working days
52	days	-	Sundays/rest days
12	days	-	regular holidays
3	days	-	special days
<hr/>			
365	days	-	Total number of days/year

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

$$\text{EMR} = \frac{\text{ADR} \times 313 \text{ days}}{12}$$

Where 313 days =

298	days	-	ordinary working days
12	days	-	regular holidays
3	days	-	special days (if worked) x 130%
<hr/>			
313	days	-	Total number of days/year

*Handwritten note on the right margin: "3"*

**3**

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

$$\text{EMR} = \frac{\text{ADR} \times 261 \text{ days}}{12}$$

Where 261 days =

- 246 days - Ordinary working days
- 12 days - regular holidays
- 3 days - special days (if worked) x 130%
- 261 days - Total number of days/year

### **SECTION 8. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS**

In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2010-2011 shall be considered as compliance with the applicable minimum wage rates prescribed herein. However, payment of any difference in the minimum wage rates set forth herein shall be given starting School Year 2011-2012.

Private Educational Institutions which have not increased their tuition fees for School Year 2010-2011 may defer compliance with the provisions of this Wage Order until School Year 2011-2012.

In any case, all Private Educational Institutions shall implement the minimum wage rates prescribed herein starting School Year 2011-2012 whether or not they will increase their tuition fees during the said school year.

### **SECTION 7. WORKERS/EMPLOYEES PAID BY RESULTS**

All workers/employees paid by results, including those who are paid on piecework, *takay*, *pakyaw*, or task basis, shall receive not less than the applicable regional minimum wage rates prescribed under the Order for the normal working hours which may not exceed eight hours work a day, or a proportion thereof for work of less than the normal working hours.

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

$$(1) \frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}} \times 100 = \% \text{ increase;}$$

\*Where AMW is the applicable minimum wage rate.

$$(2) \text{ Existing rate/piece} \times \% \text{ increase} = \text{Increase in rate/piece;}$$

$$(3) \text{ Existing rate/piece} + \text{Increase in rate/piece} = \text{Adjusted rate/piece.}$$

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

*Handwritten signature*

**SECTION 8. WAGES OF SPECIAL GROUPS OF WORKERS/EMPLOYEES**

Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable regional minimum wage rates.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the wage increases prescribed under this Order.

All qualified handicapped workers shall receive the full amount of increase in this Order pursuant to RA 7277.

**SECTION 9. APPLICATION TO CONTRACTORS**

In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers/employees shall be borne by the principals or clients of the construction/service contractors and the contracts shall be deemed amended accordingly. In the event, however, that the principals or clients fail to pay the prescribed increase, the construction/service contractors shall be jointly and severally liable with his principal or client.

**SECTION 10. MOBILE AND BRANCH WORKERS/EMPLOYEES**

The minimum wage rates of workers/employees, who by the nature of their work have to travel, shall be those applicable in the station or head office of the employer.

The minimum wage rates of workers/employees 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. TRANSFER OF PERSONNEL**

The transfer of personnel to areas outside the region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers/employees prior to such transfer. The workers/employees transferred to other regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

**SECTION 12. APPEAL TO THE COMMISSION**

Any party aggrieved by the Wage Order may file an appeal with the Commission through the Board, within ten (10) calendar days from the publication of this Order. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

**SECTION 13. EFFECT OF APPEAL**

The filing of an appeal does not operate to stay this Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to workers/employees affected by this Order of the corresponding increase, in the event such Order is affirmed.

*Delving, J.*

*3*

## RULE III - EXEMPTIONS

### SECTION 1. WHO MAY BE EXEMPTED

Distressed establishments (except conditional exemption) and establishments adversely affected by natural calamities may be exempted from compliance with this Order upon application with and as determined by the Board in accordance with NWPC Guidelines No. 02, Series of 2007 as amended.

### SECTION 2. CRITERIA FOR EXEMPTION

The following criteria shall be used to determine whether the applicant-establishment is qualified for exemption:

#### A. Distressed Establishments:

##### 1. For Corporations/Cooperatives

###### a. Full Exemption

- a.1 When the deficit as of the last full accounting period immediately preceding the effectivity of the Order amounts to 20% or more of the paid-up capital for the same period; or
- a.2 When an establishment registers capital deficiency, i.e., negative stockholders equity as of the last full accounting period immediately preceding the effectivity of the Order.

###### b. Partial Exemption

- b.1 When the deficit as of the last full accounting period immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the paid-up capital for the same period.

##### 2. For Single Proprietorships/Partnerships

###### a. Full Exemption

- a.1 When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% 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 immediately preceding the effectivity of the Order.

###### b. Partial Exemption

- b.1 When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the total invested capital at the beginning of the period under review.

3. For Non-Stock Non-Profit Organizations

a. Full Exemption

- a.1 When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period; or
- a.2 When an establishment registers capital deficiency i.e., negative fund balance/members' contribution as of the full accounting period or interim period, if any, immediately preceding the effectivity of the Order.

b. Partial Exemption

- b.1 When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the fund balance/members' contribution at the beginning of the period.

4. For Banks and Quasi – banks

a. Under receivership/liquidation

Exemption may be granted to a bank or quasi – bank under receivership or liquidation when there is a certification from the Bangko Sentral ng Pilipinas (BSP) that it is under receivership or liquidation as provided in Section 30 of RA 7853, otherwise known as the New Central Bank Act.

b. Under controllership/conservatorship

A bank or quasi-bank under controllership/conservatorship may apply for exemption as a distressed establishment under Section 3A of the New Rules for Exemption.

5. Establishments Under Corporate Rehabilitation

Exemption may be granted to corporations, partnerships and associations under corporate rehabilitation when there is an order from a court of competent jurisdiction that it is under rehabilitation as provided in Section 6, Rule IV of the Interim Rules of Procedure on Corporate Rehabilitation (2000).

B. Establishments Adversely Affected by Natural Calamities:

- 1. The establishment must be located in an area declared by a competent authority as under a state of calamity.
- 2. The natural calamities, such as earthquakes, lahar flow, typhoons, volcanic eruptions, fire, floods and similar occurrences, must have occurred within 6 months prior to the effectivity of the Order.

*Albino, Jr.*

3

3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as of the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnerships and single proprietorship and fund balance/members' contribution in the case of non-stock non-profit organizations.

Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.

4. Where necessary, the Board or its duly-authorized representative shall conduct an ocular inspection of the establishment or engage the service of experts to validate the extent of damages suffered.

### **SECTION 3. DOCUMENTS REQUIRED TO SUPPORT THE APPLICATION FOR EXEMPTION:**

The following supporting documents shall be submitted together with the application:

#### **FOR ALL APPLICANT ESTABLISHMENTS:**

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 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 proprietorship, partnership, non-stock, non-profit organizations:

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.

2. For Banks and Quasi-banks

Certification from Bangko Sentral ng Pilipinas that the establishment is under receivership/liquidation.

3. For Establishments Under Corporate Rehabilitation

Order from a court of competent jurisdiction that the establishment is under rehabilitation.

**B. For Establishments Adversely Affected by Natural calamities**

1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
  - a. Date and type of calamity
  - b. Amount of losses/damages suffered as a direct result of the calamity
  - c. List of properties damaged/lost together with estimated valuation
  - d. For properties that are not insured, a statement that the same are not covered by insurance.
2. Copies of insurance policy contracts covering the properties damaged, if any.
3. Adjuster's report for insured properties.
4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency.

The Board may further require the submission of other supporting documents pertinent to the determination of applicant's eligibility for exemption.

**SECTION 4. PROCEDURES ON EXEMPTION**

**A. Filing an Application**

An application under oath in three (3) legible copies may be filed with the Board or with the Regional, District or Provincial Offices of the Department not later than *seventy five (75) days* from publication of this Rules 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.

**B. For Filing of Opposition**

Any worker/employee or, if unionized, the union in the applicant establishment, may file with the Board within fifteen (15) days from receipt of the notice of 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 opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

**C. For 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 Regional Office No. 1.

*DeBury, Jr.*

*3*

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.

#### For 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 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.

#### **SECTION 5. EXTENT AND DURATION OF EXEMPTION**

A full exemption of one (1) year shall be granted to all establishments that meet the applicable criteria for exemption, in accordance with the provisions of Section 2, Rule III of this Rules.

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

#### **SECTION 6. EFFECT OF FILING OF APPLICATION FOR EXEMPTION**

Whenever an application for exemption has been duly filed with the Board, the Regional Office of the Department shall be notified and any complaint for alleged non-compliance with the Order shall be deferred pending resolution of the application for exemption.

*Delany, Jr.*

3

**SECTION 7. APPLICATION FOR PROJECT/  
BRANCH/DIVISION**

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  
FOR EXEMPTION**

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

**RULE IV - CREDITABLE INCREASE**

**SECTION 1. ESTABLISHMENTS WITH COLLECTIVE  
BARGAINING AGREEMENTS**

If expressly provided and agreed upon in the collective bargaining agreements, wage increases granted by employers three (3) months prior to the effectivity of this Order shall be credited as compliance.

**SECTION 2. ESTABLISHMENTS WITHOUT COLLECTIVE  
BARGAINING AGREEMENTS**

Wage increases granted by employers without collective bargaining agreements six (6) months prior to the effectivity of the Order shall also be credited as compliance therewith.

**SECTION 3. WHERE CREDITABLE INCREASE IS LESS  
THAN THE PRESCRIBED INCREASE**

In cases where the wage increases granted are less than the prescribed increases in this Order, the employer shall pay the difference. Such increases shall not include anniversary wage increases provided in collective bargaining agreements, merit wage increases and those resulting from the regularization or promotion of workers/employees.

*Delungo*

*2*

## **RULE V - SPECIAL PROVISIONS**

### **SECTION 1. EFFECT ON EXISTING WAGE STRUCTURE**

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

In cases where there are no Collective Bargaining Agreements or recognized labor unions, the employers and workers/employees shall endeavor 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 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 said dispute is submitted for compulsory arbitration.

The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of any wage adjustment prescribed by the Wage Order. (See attached Annex "A")

### **SECTION 2. COMPLAINTS FOR NON-COMPLIANCE**

Complaints for non-compliance with the wage increase prescribed under this Order shall be filed with the Department of Labor and Employment - Regional Office No. I and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

### **SECTION 3. NON-DIMINUTION OF BENEFITS**

Nothing in this Order and in 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 workers and employers or employer practices and policies.

### **SECTION 4. FREEDOM TO BARGAIN**

This Order shall not be construed to prevent workers/employees in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

### **SECTION 5. PRODUCTIVITY-BASED WAGES**

As mandated by law, the prescribed minimum wages herein only provide for a safety net protection to the minimum wage workers/employees.

To attain higher levels of productivity for competitiveness, to preserve and generate gainful employment and to augment the wages of workers/employees, business enterprises are strongly encouraged to adopt Productivity Improvement and Gain Sharing Programs.

*Deling*

Business establishments are likewise encouraged to avail of the technical assistance which this Board and/or the National Wages and Productivity Commission provide such as the ISTIV Productivity Improvement Program and other Productivity Improvement Schemes.

**SECTION 6. REPORTING REQUIREMENT**

Any person, company, corporation, partnership or any entity engaged in business shall submit annually a verified itemized listing of their labor component to the Board not later than January 31, 2011 and every year thereafter in accordance with Section 3 of RA 6727 in relation to Art. 124 of the Labor Code as amended, and the form as prescribed by the Commission.

**SECTION 7. 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.

**SECTION 8. PENAL PROVISION**

Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed wage rate under this Order shall be punished by a fine not less than Twenty Five Thousand Pesos (P25,000) nor more than One Hundred Thousand Pesos (P100,000) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court pursuant to the provision of Section 12 of R. A. 6727, as amended by R. A. 8188.

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.

**SECTION 9. SEPARABILITY CLAUSE**

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

**SECTION 10. EFFECTS ON OTHER ISSUANCES**

The provisions of existing orders, issuances, rules and regulations not otherwise repealed, modified or inconsistent with this Order and this Rules shall continue to have full force and effect.

*CR*

3

**SECTION 11. EFFECTIVITY**

This Rules shall take effect on January 20, 2011.

Approved this 12<sup>th</sup> day of January 2011 in the City of San Fernando, La Union.



**ELISEO P. FLORA**  
Member, Workers' Representative



**DEMETRIO E. RUIZ, JR.**  
Member, Workers' Representative



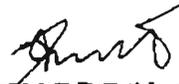
**JERRY V. PARLAN**  
Member, Employers' Representative



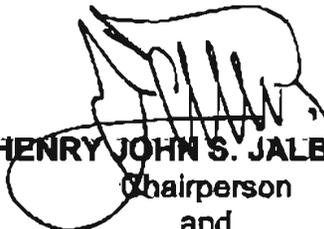
**SALVADOR R. POSERIO**  
Member, Employers' Representative



**FLORANTE O. LEAL**  
Vice-Chairperson  
and  
Regional Director, DTI



**LEONARDO N. QUITOS, JR.**  
Vice-Chairperson  
and  
Regional Director, NEDA



**HENRY JOHN S. JALBUENA**  
Chairperson  
and  
Regional Director, DOLE

Attested by:



**EXEQUIEL RONIE A. GUZMAN**  
Board Secretary VI

Approved this 7th day of February 2011.

  
**ROSALINDA DIMAPILIS BALDOZ**  
Secretary  
Department of Labor and Employment

Dept. of Labor & Employment  
Office of the Secretary



110169

## ADVISORY DISTORTION FORMULA

$$\text{Wage distortion adjustment} = \frac{\text{Existing minimum wage}}{\text{Wage of employee}} \times \text{Mandated wage increase}$$

Computational example:

Assume:

Category	Plantation	Banks and Financial Intermediaries
Mandated wage increase	P 8.00 daily	P 8.00 daily
Existing minimum wage	P228.00 daily	P248.00 daily
Wage of Employee	P230.00 daily	P255.00 daily
 Wage distortion adjustment	 = $\frac{P228.00}{P230.00} \times P8.00$ = P 7.90	 = $\frac{P248.00}{P255.00} \times 8.00$ = P 7.78
 New daily rate	 = P 230.00 + 7.90 = P 237.90	 = P 255.00 + 7.78 = P 262.78

Published in the Amianan Tribune on January 5, 2011.