

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

WAGE ORDER NO. RB 1-01-A
GRANTING COST OF LIVING ALLOWANCE

WHEREAS, the Gulf crisis has resulted in the loss of supply from the world market of oil coming from Iraq and Kuwait and despite increased production from other producers the oil supply continues to be uncertain, thus raising the oil prices;

WHEREAS, the effect of this crisis and the adjustment in the value of the Philippine peso vis-à-vis the US dollar have made it imperative to increase the prices of domestic petroleum products by an average of P1.42 per liter on 21 September 1990;

WHEREAS, the foregoing difficulties have been compounded by the July 16, 1990 killer-quake which wrought extensive damages to lives, properties and businesses in the Cordillera Administrative Region;

WHEREAS, such adjustments and devastation have contributed to substantial increases in transportation fares and prices of basic goods and services;

WHEREAS, in addition to the efforts of government to hold down prices of basic goods, it is necessary to provide workers and their families with immediate relief;

WHEREAS, the Regional Board feels that it is more prudent and appropriate to defer the adjustment of the minimum wage until the present situation of the region normalizes and to give instead substitute emergency relief to the affected workers in the form of Cost of Living Allowance (COLA).

NOW, therefore, pursuant to the power vested in it by Republic Act No. 6727, the Regional Tripartite Wages and Productivity Board (RTWPB) of Region I hereby issues this Wage Order:

Section 1. Upon the effectivity of this Wage Order, workers and employees in the private sector in the Cordillera Administrative Region (CAR) in the Provinces of Abra, Benguet and Mt. Province and the City of Baguio presently receiving the applicable minimum wage provided for in RA 6727, whether agricultural or non-agricultural, shall in lieu of the minimum wage adjustment, be granted a Cost of Living Allowance (COLA) in the amount of TEN PESOS (P10.00) per day: Provided, that those already receiving above the daily minimum wage rates up to one hundred twenty-five pesos (P125.00) shall also receive the COLA of P10.00.

Section 2. Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Retail/service establishments and small or parochial schools regularly employing not more than ten (10) workers and Countryside and Barangay Business Enterprises (CBBEs) duly registered pursuant to RA 6810 and new industries granted exemptions under RA 6727 shall be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations.

Distressed employers whose capital has been impaired by at least twenty-five percent (25%) during the preceding year and those that have been adversely affected by the recent earthquake may be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations.

In the event that applications for exemption are not granted, covered workers and employees shall receive the appropriate compensation due them as provided for in this Wage Order plus interest of one percent (1%) per month retroactive to the effectivity of this Wage Order.

Section 3. Workers and employees of hotels, inns and restaurants and other tourism oriented establishments in the CAR in the meantime shall not be covered by the required COLA. The delay/suspension of the implementation of COLA shall remain until such time that the conditions in the tourism industry shall have normalized or until such time as may be determined by the Board.

Section 4. Private educational institutions which increased their tuition fees or were granted subsidy under RA 6728 beginning school year 1990-1991 and have distributed accordingly the seventy percent (70%) of the incremental proceeds of such tuition fee increases or subsidy intended for the same school year shall not be covered by the required COLA for the said school year.

Beginning school year 1991-1992, all covered schools shall implement the ten pesos (P10.00) per day COLA regardless of whether or not they have actually increased tuition fees or are granted subsidy under RA 6728 intended for that school year.

Section 5. All workers paid by result, including those who are paid on piecework, "pakyaw" or task basis, shall be entitled to receive the prescribed COLA for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for working less than the normal working hours.

Section 6. In the case of contracts for security, janitorial and similar services, the prescribed COLA for covered workers and employees shall be borne by the principals or clients of the service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed COLA the service contractor shall be jointly and severally liable with the principal or client.

Section 7. Learners, apprentices and handicapped workers shall be entitled to the COLA in proportion to the salary rates they receive.

Section 8. Wage increases granted by an employer not earlier than May 1, 1990 but not later than November 15, 1990 shall be credited as compliance with the prescribed COLA under this Wage Order, provided that, where such increases are less than the prescribed COLA, the employer shall pay the difference. Such increases shall not include anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employees.

Section 9. Where the application of the emergency cost of living allowance prescribed herein results in distortions of the pay structure within an establishment, such distortions shall be resolved using the procedure specified under Article 124 of the Labor Code of the Philippines, as amended.

Section 10. The Regional Board shall prepare the necessary rules and regulations to implement this Wage Order, subject to the approval of the Secretary of Labor and Employment.

Section 11. Any employer who refuses or fails to pay the cost of living allowance provided under this Wage Order shall be subjected to the penalties as specified under RA 6727.

Section 12. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or any benefit under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between workers and employers.

Section 13. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation.

Approved.

30 October 1990.

(SGD) DEMETRIO E. RUIZ, JR.

(SGD) MARTIN P. POSADAS

Workers Representative

Employers Representative

(SGD) SEGUNDINA G. VELASCO
Workers Representative

(SGD) EDUARDO C. ALCANTARA
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(SGD) ARMANDO P. GALIMBA
Vice-Chairman

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(SGD) TERESITA R. MANZALA
Chairman

Republic of the Philippines
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region I
San Fernando, La Union

RULES IMPLEMENTING WAGE ORDER NO. RB-1-01-A

Pursuant to the authority granted to the Regional Tripartite Wages and Productivity Board by Republic Act 6727, the following rules are hereby issued for strict compliance by all concerned in the Cordillera Administrative Region (CAR) particularly in the Provinces of Abra, Benguet, Mt. Province and the City of Baguio:

Section 1. Definition of Terms. -

- (a) "Order" means Wage Order No. RB-1-01-A;
- (b) "Commission" means the National Wages and Productivity Commission;
- (c) "Board" means the Regional Tripartite Wages and Productivity Board in Region I;
- (d) "CAR" covers the provinces of Abra, Benguet, Mountain Province and the city of Baguio
- (e) "Agriculture" refers to farming in all its branches and includes among others, 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 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;
- (f) "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than 24 hectares in a locality and/or which employs at least 20 workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprises";
- (g) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- (h) "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;
- (i) "Countryside and Barangay Business Enterprise" (CBBE) refers to an establishment duly registered pursuant to RA 6810;
- (j) "Small or Parochial Schools" refer to private schools duly accredited by the Department of Education, Culture and Sports and which are dependent upon donations to the extent of not less than 75% for their operation and maintenance;
- (k) "Distressed Establishments" refer to establishments whose capital have been impaired by at least twenty-five percent (25%) during the preceding year and those that have been adversely affected by the July 16, 1990 earthquake;
- (l) "New Industries" refer to firms established after July 1, 1989 which were granted exemptions under RA 6727;
- (m) "Cottage/Handicraft Establishment" is one engaged in an economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship and/or whose capitalization does not exceed P500,000.00 regardless of previous registration with the defunct NACIDA;

- (n) "Tourism-oriented establishments" refer to those that minister to the comfort of tourists, including but not limited to hotels, inns, restaurants, curio and souvenir shops and similar establishments and those that cater to the accommodation of tourists, foreign or local.
- (o) "Department" refers to the Department of Labor and Employment;
- (p) "Basic Wage" means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost of living allowance, profit sharing payments, premium payments, 13th month pay or other monetary benefits which are not considered as part of or integrated into the regular salary of the worker on the date the Wage Order became effective;
- (q) "Statutory Minimum Wage" is the lowest wage rate fixed by the law that an employer can pay his workers;
- (r) "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;
- (s) "Capitalization" means paid-up capital, in the case of a corporation, and total invested capital, in the case of a partnership or single proprietorship.

Section 2. Coverage. - This rules shall apply to all workers and employees in the private sector in the Cordillera Administrative Region (CAR) in the provinces of Abra, Benguet and Mountain Province and in the City of Baguio regardless of their position, designation or status, and irrespective of the method by which their wages are paid except:

- (a) Household or domestic helpers, including family drivers and workers in the personal service of another;
- (b) Retail/service establishments and small or parochial schools regularly employing not more than ten (10) workers and Countryside and Barangay Business Enterprise (CBBEs) duly registered pursuant to RA 6810 and new industries granted exemptions under RA 6727 shall be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations.
- (c) Distressed employers whose capital has been impaired by at least twenty-five percent (25%) during the preceding year and those that have been adversely affected by the recent earthquake may be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations.

Section 3. Effectivity. - The Order takes effect on 18 November 1990, 15 days following its complete publication in one newspaper of general circulation on 03 November 1990.

Section 4. Amount of Cost of Living Allowance. -

- (a) Effective November 18,1990, every covered employer shall give to each of his employees who is receiving the statutory minimum wage the Cost of Living Allowance of TEN PESOS (P10.00) per day;
- (b) All workers and employees who, prior to 18 November 1990, were already receiving a basic wage above the statutory minimum wage rates provided under RA 6727 but not over P125.00 per day shall receive a cost of living allowance increase of P10.00 per day.

Section 5. Application to Tourism Oriented Establishments. - Workers and employees of hotels, inns, and restaurants and other tourism oriented establishments in the CAR in the meantime shall not be covered by the required COLA. The delay/suspension of the implementation of COLA shall remain until such time that the conditions in the tourism industry shall have normalized or until such time as may be determined by the Board.

Section 6. Application to Private Educational Institutions. - The P10.00 per day COLA shall apply to workers and employees of private educational institutions effective as follows:

- (a) In cases where tuition fee increase takes effect at the beginning of school year 1990-1991, the COLA of P10.00 per day shall take effect on 18 November 1990;
- (b) In cases where the school is granted subsidy under Republic Act No. 6728 for school year 1990-1991, the COLA shall take effect on 18 November 1990.

Where the 70% incremental proceeds of the tuition fee increase or the subsidy is not sufficient to cover the required COLA under the Order, the school shall pay the difference.

Beginning school year 1991-1992, all schools shall implement the required COLA regardless of whether or not they have actually increased tuition fees or were granted subsidy.

Section 7. Allowance to be Paid in Cash. - The allowances required by the Order shall be paid in cash together with the regular wage on the customary pay days.

Section 8. Special Feature of the Allowance. -

- (a) Allowances granted to workers in compliance with the Order need not be considered as part of the regular wage of the employees for purposes of determining overtime and premium pay, fringe benefits, as well as premium contributions to the State Insurance Fund, social security, Medicare, maternity pay and private welfare and retirement plans.
- (b) In the event that the employer opts to grant wage increase in lieu of the allowance, the wage increase shall be considered as compliance with the Order, provided the amount is not less than that required by the Order.

Section 9. Leave of Absence With Pay. - All covered employees shall be entitled to the allowance provided herein when they are on leave of absence with pay.

Section 10. Relation to Workmen's Compensation and Social Security Payments. - An employee who is receiving workmen's compensation or social security benefits such as sick leave or maternity leave, in lieu of wages, is entitled to the allowance to the extent of such compensation or benefit.

Section 11. Workers Paid by Results. - All workers paid by results, including those who are paid on piecework, "pakyaw" or task basis, shall be entitled to receive the prescribed COLA for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for working less than the normal working hours.

Section 12. COLA of Special Group of Workers. - Learners, apprentices and handicapped workers shall be entitled to the COLA in proportion to the salary rates they receive.

Section 13. Non-diminution of Benefits. - Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or any benefit under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between workers and employees.

Section 14. Application to Contractors. - In the case of contracts for construction, security, janitorial and other similar services, the prescribed COLA for covered workers and employees shall be borne by the principals or clients of the service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed COLA the service contractor shall be jointly and severally liable with the principal or client.

For purposes of monitoring compliance with the aforementioned requirement, the principal/client or the service contractor shall submit to the Board copy of the service contract entered by and between them covering the period November 18, 1990 and thereafter, within thirty (30) days from the effectivity of said service contract.

Section 15. Application for Exemptions. - The following establishments may be exempted from compliance with the COLA increase prescribed under the Order upon application with and as determined by the Board in accordance with applicable rules and regulations:

- (a) Retail/Service establishments and small or parochial schools employing not more than ten (10) workers;
- (b) CBBEs established within the period 1 July 1989 to 30 June 1993 for a period of two (2) years from the start of their operations;
- (c) Distressed employers whose capital has been impaired by at least twenty-five (25) percent during the preceding year and those that have been adversely affected by the July 16, 1990 earthquake;
- (d) New industries which were granted exemptions under RA 6727.

Whenever an application for exemption has been duly filed with the Board, action by the Regional Office of the Department in the CAR on any complaint for alleged non-compliance with the Order shall be deferred pending resolution of the said application.

In the event that applications for exemptions are not granted, covered workers and employees shall receive the appropriate compensation due them as provided for under the Order plus interest of one percent (1%) per month retroactive to November 18, 1990.

Section 16. Complaints for Non-compliance.- Complaints for non compliance with the cost of living allowance increase provided under the Order shall be filed with the Regional Office of the Department in the CAR and shall be the subject of enforcement proceedings in accordance with Articles 128 and 129 of the Labor Code as amended.

Section 17. Penal Provisions. - Any employer who refuses or fails to pay the cost of living allowance provided under this Order shall be punished by a fine not exceeding P25,000.00 and/or imprisonment of not less than one year nor more than two years. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

If the violation is committed by a corporation, trust or firm, partnership, association or 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 18. 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 19. Effects on Other Laws, Orders, Decrees, and their Implementing Rules. - All laws, orders, issuances, rules and regulations or part thereof inconsistent with the provisions of the Order are hereby repealed or amended accordingly. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid and shall continue to have full force and effect.

Section 20. Enforcement. - This rules shall be enforced in accordance with the applicable provisions of RA 6727 and its implementing regulations.

Section 21. Effectivity. - This Rules shall take effect on 18 November 1990.

Done in San Fernando, La Union, Republic of the Philippines this 12th day of November 1990.

(SGD) DEMETRIO E. RUIZ, JR.

(SGD) MARTIN P. POSADAS

Workers Representative

Employers Representative

(SGD) SEGUNDINA G. VELASCO
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