

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

WAGE ORDER NO. RB 1-04  
INCREASING THE REGIONAL MINIMUM WAGE RATES

WHEREAS, the socio-economic condition since the last wage increase in 1993 has adversely affected the purchasing power of the minimum wage earners in the region;

WHEREAS, consistent with the policy of providing workers with "safety net" protection against unduly low wages, the Board recognizes the need to review the current minimum wage levels;

WHEREAS, the Board had not received any petition for wage increase from the labor sector since the issuance of Wage Order No. RB 1-03;

WHEREAS, the Board, in the exercise of its wage-fixing function and in order to get inputs from the labor, management and government sectors, conducted motu proprio a series of public consultations and hearings in the region;

WHEREAS, notwithstanding the absence of a petition for wage increase, the Board recognizes the need to adjust the regional minimum wage rates to enable the workers in the region to cope with the rising costs of living without impairing the viability of business and industry;

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 - Region I hereby issues this Wage Order:

Section 1. Upon the effectivity of this Wage Order, the regional minimum wage rates of all workers and employees in the private sector shall be increased by eight pesos (P8.00): Provided, that those already receiving above the minimum wage rates up to one hundred sixty pesos (P160.00) shall also receive an increase of eight pesos (P8.00).

Section 2. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 1995-1996 shall be considered as partial or full compliance to the applicable wage increase: Provided, that where the share is less than the mandated wage increase, the school shall pay the difference effective at the start of School Year 1996-1997.

Private educational institutions which did not increase tuition fees for School Year 1995-1996 shall implement the increase starting School Year 1996-1997.

Section 3. Exempted from the provisions of this Wage Order are household or domestic helpers and persons employed in the personal service of another, including family drivers.

Section 4. Upon application with and as determined by the Board in accordance with the applicable rules and regulations issued by the Commission, the following may be exempted from the applicability of this Order:

1. Retail/Service establishments regularly employing not more than ten (10) workers;
2. Distressed establishments as defined in the NWPC Revised Guidelines on Exemption;  
and
3. Banks under receivership/liquidation.

The Board has the discretion to grant full or partial exemption with respect to the amount and period of exemption.

Section 5. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with this Order shall be deferred pending its resolution.

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

Section 6. All workers paid by result, including those who are paid on piecework, takay, pakyaw or task basis, shall receive not less than the prescribed wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 7. All recognized learnership and apprenticeship agreements shall be considered automatically modified insofar as their wage clauses are concerned to reflect the prescribed wage increases.

Section 8. 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 shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 9. If expressly provided and agreed upon in the collective bargaining agreements, all increases in the daily basic wage rates granted by the employers three (3) months before the effectivity of this Act shall be credited as compliance with the increases in the wage rates prescribed herein.

Wage increases granted by employers in establishments without collective bargaining agreements within six (6) months prior to the effectivity of this order shall be credited as compliance with the increases prescribed in this Order;

In any case, where such increases are less than the prescribed increases in the wage rates under this Order, 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 10. Where the application of the minimum wage increase prescribed under this Order results in distortions of the wage structure in any establishment, such distortions shall be corrected using the procedure as specified under Article 124 of the Labor Code as amended.

Section 11. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in this Wage Order shall be subject to the penalties specified under RA 6727.

Section 12. If any provision or part of this Wage Order, or the application thereof to any person or circumstances, is held invalid or unconstitutional, the remainder of this Order or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Nothing in this Act 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 13. Any party aggrieved by this Wage Order may appeal to the Commission within ten (10) calendar days from the date of its publication.

The filing of the appeal does not operate to stay the Order unless the person appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the

Commission for the payment to the employees affected by the Order of the corresponding allowance, in the event such Order is affirmed.

Section 14. 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 15. The Board shall prepare the necessary rules and regulations to implement this Order, subject to the approval of the Secretary of Labor and Employment.

Section 16. This Wage Order shall be subject to review within a period of twelve (12) months from the date of its effectivity should supervening conditions such as the impending increase in the prices of petroleum products and the deregulation of the oil industry so warrant.

Section 17. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

Approved.

San Fernando, La Union, Philippines, 27 January 1996.

CARLOS S. REYES  
Member  
Employers' Representative

(SGD) DEMETRIO E. RUIZ, JR.  
Member  
Workers' Representative

(SGD) SEGUNDINA G. VELASCO  
Member  
Workers' Representative

(SGD) LEONARDO N. QUITOS, JR.  
Vice-Chairman

(SGD) FLORANTE O. LEAL  
Vice-Chairman

(SGD) GUERRERO N. CIRILO, CESO II  
Chairman

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

RULES IMPLEMENTING WAGE ORDER NO. RB 1-04

Pursuant to the authority granted to the Regional Tripartite Wages and Productivity Board under Section 5, Rule IV, of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 15 of Wage Order No. RB 1-04, the following rules are hereby issued for strict compliance by all concerned:

RULE I

GENERAL PROVISIONS

Section 1. Title. This Rules shall be known as the Rules Implementing Wage Order No. RB 1-04.

Section 2. Definition of Terms. As used in this rules:

- (a) "Order" means Wage Order No. RB 1-04;
- (b) "Commission" means the National Wages and Productivity Commission;
- (c) "Board" means the Regional Tripartite Wages and Productivity Board in Region I;
- (d) "Region I" covers the provinces of Ilocos Norte, Ilocos Sur, La Union and Pangasinan and the cities of Dagupan, Laoag and San Carlos;
- (e) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;

A retail establishment that regularly engages in wholesale activities loses its retail character.

- (f) "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;
- (g) "Distressed Establishments" refer to establishments which meet the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines for Exemption, Series of 1992;
- (h) "Agriculture" refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodities, aquaculture, the 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 deep-sea fishing, the manufacturing or processing of sugar, coconut, abaca, tobacco, pineapple or other farm products, marine and aquaculture products;
- (i) "Agriculture Plantation" refers to one 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 "Agriculture Non-Plantation";
- (j) "Mining and Quarrying" refers to the extraction, dressing and beneficiating of minerals occurring naturally; solids, such as coal and ores; liquids, such as liquid petroleum; and gases, such as natural gas; and among others, includes underground and surface mines, quarries and wells and all supplemental activities for dressing and beneficiating ores and other crude materials such as crushing, screening, washing, cleaning, grading, milling, flotation, melting, pelleting, topping, and other preparations needed to render the

- material marketable; and the development and preparation of mineral properties and sites for extraction and the prospecting for minerals if such activities are performed by the mining establishments; but does not include works performed on a contract or fee basis in the development and preparation of mineral properties and sites or prospecting for minerals;
- (k) “Manufacturing” refers to the mechanical or chemical transformation of inorganic or organic 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 worker’s home, and whether the products are sold at wholesale or retail;
  - (l) (1) “Electricity” refers to the generation, transmission and distribution of electric energy by electric energy power plants which sell a significant amount of electricity to others as well as produce electricity for their parent enterprise and which can be reported separately from the other units of the parent enterprises;
  - (2) “Gas” refers to the manufacture of gas in gas works and the distribution of manufactured or natural gas through a system of mains to household, industrial and commercial users and the production and distribution of steam and hot water for heating and power purposes, and includes geothermal and nuclear power plants;
  - (3) “Water” refers to the collection, purification and distribution of water to household, industrial and commercial users.
  - (m) “Construction” refers to the general and special trade contractor primarily engaged in contract construction; and units of enterprises engaged primarily in construction work for the parent enterprise, which can be reported separately, and includes among others, construction, alteration, repair and demolition of buildings, highways, streets and culverts; construction of such projects as sewers and water, gas and electricity mains; railways, roadbeds, railroads, piers, tunnels, elevated highways, bridges, viaducts; dam, drainage projects, sanitation projects, aqueducts, irrigation and flood control projects; hydroelectric plants, water power projects; pipelines; marine construction such as dredging, underwater rock removal; pile driving, land reclamation; construction of harbors and waterways; water wells; airports and parking areas; athletic fields, golf courses, swimming pools, and tennis courts; communication systems such as telephone and telegraph lines; and all other construction whether undertaken by private bodies or governmental authorities; but does not include construction, repair and demolition work undertaken as an ancillary activity by the staff and for the use of an enterprise classified in any other division of the classification;
  - (n) “Wholesale” refers to the resale (sale without transformation) of new and used goods to retailers; to industrial, commercial institutions or professional users; to other wholesalers; and to the government, wholesale merchants, 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;
  - (o) (1) “Transportation” includes companies furnishing transportation by inter-provincial and suburban railroads, by bus either on scheduled or unscheduled trips operating in provinces or cities, public utility cars and taxicabs, jeepneys and auto calesas, and other road passenger and freight transport; operation of vessels for transport of freight and passenger coastwise, inter-island or overseas including booking offices of international water transport; the transport by air of passengers and freight including booking offices of international airlines; and includes among others, services allied to transport such as operation of parking lots; operation and maintenance of passenger terminals including equipment; services and activities related to water transport such as maintenance and operation of piers, docks and associated buildings and facilities, pilotage, maintenance and operation of lighthouses and other aids to navigation, loading and discharging of vessels,

maintenance and operation of canals, salvaging of distressed vessels and cargoes, and ship leasing and rental; operation and maintenance of airports, flying fields, control stations and radar stations, aircraft rental; transport by pipeline, on a contract or fee basis, of crude and refined petroleum, natural gas, coal, slurry and other commodities; tour and travel agencies and customs brokers (ship and aircraft);

- (2) "Storage" refers to the operation of storage facilities and warehouses (including bonded and refrigerated warehouses) for hire by the general public for storage of such items as farm products, food, furniture and other household goods, automobile dead-storage, grains, whiskey, textiles and lumber, when such storage is offered as an independent service;
  - (3) "Communication" includes communication services rendered to the public whether by post, wire or radio and whether intended to be received audibly or visually including services for the exchange or recording of messages; but does not include radio and television broadcasting studios and relay stations;
- (p)
- (1) "Financing" refers to corporations, companies or associations which are engaged in the lending of funds obtained from the public through the receipt of deposits; the sale of bonds, securities or obligations of any kind; and persons or entities whose principal functions include the lending, investing or placement of funds or evidence of equity deposited with them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others;
  - (2) "Insurance" includes insurance carriers of all kinds such as life, fire, marine, accident, health, title, financial obligation, casualty, fidelity and surety; insurance agents and brokers' organizations servicing insurance carriers; consultants for policy holders; adjusting agencies; independently organized pension (superannuation) funds;
  - (3) "Real Estate" includes letting and operating real estate such as non-residential buildings, apartment buildings and dwellings; developing and subdividing real estate into lots, including the development and sale of cemetery lots and residential development on own account; lessors of real property; real estate agents, brokers and managers engaged in renting, buying, selling, managing and appraising real estate on a contract or fee basis; but does not include operators of hotels, rooming houses, camps, trailer camps and other lodging places;
  - (4) "Business Services" refer to professional business services such as legal, accounting, auditing, bookkeeping, engineering, architectural, technical, and advertising services including machinery and equipment renting and leasing;
- (q) "Cooperatives" refer to duly registered associations of persons who voluntarily join together to form business establishments 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;
- (r) "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 whose capitalization does not exceed P1,500,000, regardless of previous registration with the defunct NACIDA;
- (s) "Minimum Wage" is the lowest wage rate fixed by the Board that an employer can pay his workers;
- (t) "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 allowances, 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 Order became effective;
- (u) "Capitalization" means paid-up capital, in the case of a corporation, and total invested capital, in the case of a partnership or single proprietorship;

- (v) "Department" refers to the Department of Labor and Employment;
- (w) "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;

RULE II  
WAGE INCREASE

Section 1. Coverage. The wage increase prescribed under the Order shall apply to all workers and employees in the private sector 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) Workers and employees in retail/service establishments regularly employing not more than ten (10) workers, when exempted from the compliance of the Order, for a period fixed by the Board in accordance with Section 4 of the Order and Rule IV of this Rules;
- (c) Workers and employees in distressed establishments when exempted from compliance with the Order, for a period fixed by the Board in accordance with Section 4 of the Order and Rule IV of this Rules;
- (d) Workers and employees in banks under receivership/liquidation when exempted from compliance with the Order, for a period fixed by the Board in accordance with Section 4 of the Order and Rule IV of this Rules;
- (e) Workers and employees receiving a basic wage of more than P160.00 per day.

Section 2. Effectivity. The Order takes effect on February 22, 1996, fifteen (15) days following its complete publication in a newspaper of general circulation on February 7, 1996 pursuant to Section 17 of the Order.

Section 3. Amount of Minimum Wage Increase. Effective February 22, 1996, the daily regional minimum wage rates of covered workers and employees in Region I shall be increased by eight pesos (P8.00) per day.

Section 4. When Wage Increase Due Other Workers.

- (a) All workers and employees, who, prior to February 22, 1996, were already receiving a basic wage above the regional minimum wage rates provided under Wage Order No. RB 1-03 but not over P160.00 per day shall receive the wage increase provided in the preceding Section.
- (b) Those receiving not more than the following monthly basic wage rates<sup>1/</sup> prior to February 22, 1996 shall be deemed covered by the preceding subsection:
  - (1) P5,212.00 - where the workers and employees work everyday, including premium payments for Sundays or rest days, special days and regular holidays.
  - (2) P4,866.67 - where the workers and employees do not work but considered paid on rest days, special days and regular holidays.
  - (3) P4,186.67 - where the workers and employees do not work and are not considered paid on Sundays or rest days.
  - (4) P3,493.33 - where the workers and employees do not work and are not considered paid on Saturdays and Sundays or rest days.
- (c) Workers and employees who, prior to February 22, 1996, were receiving a basic wage of more than P160.00 per day or its monthly equivalent, are not by law entitled to the wage increase provided under the Order. They may, however, receive wage increases through the correction of wage distortions in accordance with Rule V of this Rules.

Section 5. Daily Regional Minimum Wage Rates. The daily regional minimum wage rates of workers and employees shall be as follows:

SECTOR/INDUSTRY	Under W.O. No. RB 1-03 (Effective Dec. 23'93)	Under W.O. No. RB 1-04 (Effective Feb 22 '96)
<b>AGRICULTURE</b>		
Plantation with annual gross sales of P5M or more	P109.00	P117.00
Plantation with annual gross sales of less than P5M	104.00	112.00
Non-Plantation	86.50	94.50
<b>NON-AGRICULTURE</b>		
Mining and Quarrying	123.00	131.00
Manufacturing	124.00	132.00
Electricity, Gas & Water	124.00	132.00
Construction	123.00	131.00
Wholesale	124.00	132.00
Transportation, Storage and Communication	124.00	132.00
Financing, Insurance, Real Estate and Business Services	124.00	132.00
Private Education Institutions		
Colleges & Universities, including Science High Schools, other similar Secondary Schools and Special Elementary Schools charging Tuition Fees of P3,000 or more per student/pupil in one school term	124.00	132.00
Private Secondary, Elementary & Vocational Schools and Kindergarten & Other Pre-School educational institutions	123.00	131.00
Security, Janitorial and Messengerial Services (Hired through Private Service Contractors)	123.00	131.00
Cooperatives duly registered with the Coperative Development Authority	122.00	130.00
Cottage/Handicraft <sup>1</sup>		
Employing more than 30 workers	100.00	108.00
Employing not more than 30 workers	98.00	106.00
Private Hospitals and Clinics	120.00	128.00
Retail/Service/Hotels/Inns/Resorts/Restaurants and Similar Services		
Cities with population of more than 150,000 <sup>2</sup>		
Employing more than 15 workers	123.00	131.00
Employing 11 to 15 workers	119.00	127.00
Employing not more than 10 workers <sup>3</sup>	92.00	100.00
Municipalities and Cities with population of not more than 150,000		
Employing more than 10 workers	119.00	127.00
Employing not more than 10 workers	92.00	100.00
Sugar Mills		
Agriculture	126.00	134.00
Plantation with annual gross sales of P5M or more	103.50	111.50
Plantation with annual gross sales of less than P5M	98.50	106.50
Non-Plantation	86.50	94.50
<b>BUSINESS ENTERPRISES WITH CAPITALIZATION OF NOT MORE THAN P500,000 AND EMPLOYING NOT MORE THAN 20 WORKERS</b>		
Agriculture Plantation		
Products Other than Sugar	99.00	107.00

<sup>1</sup> Workers of establishments whose present capitalization is more than P1,500,000, regardless of previous registration with the defunct NACIDA, are entitled to the minimum wage increase of P8.00 per day.

<sup>2</sup> Based on Official Population Projections adopted by NEDA Board.

<sup>3</sup> May be exempted from the wage increase under the Order upon application with the RTWPB-I.

Sugar	93.50	101.50
Non-Agriculture		
Mining and Quarrying	113.00	121.00
Manufacturing	114.00	122.00
Electricity, Gas & Water	114.00	122.00
Construction	113.00	121.00
Wholesale	114.00	122.00
Transportation, Storage and Communication	114.00	122.00
Financing, Insurance, Real Estate and Business Services	114.00	122.00
Private Education Institutions		
Colleges & Universities, including Science High Schools, other similar Secondary Schools and Special Elementary Schools charging Tuition Fees of P3,000 or more per student/pupil in one school term	114.00	122.00
Private Secondary, Elementary & Vocational Schools and Kindergarten & Other Pre-School educational institutions	113.00	121.00
Security, Janitorial and Messengerial Services (Hired through Private Service Contractors)	113.00	121.00
Cooperatives duly registered with the Coperative Development Authority	112.00	120.00
Private Hospitals and Clinics	110.00	118.00
Retail/Service/Hotels/Inns/Resorts/Restaurants and Similar Services		
Cities with population of more than 150,000		
Employing more than 15 workers	113.00	121.00
Employing 11 to 15 workers	109.00	117.00
Municipalities and Cities with population of not more than 150,000		
Employing more than 10 workers	109.00	117.00

Section 6. 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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable daily wage rate (ADR)} \times 390.90 \text{ days}^4}{12}$$

Where 390.90 days =

302	days - ordinary working days
20	days - 10 regular holidays x 200%
66.30	days - 51 rest days x 130%
<u>2.60</u>	<u>days</u> - 2 special days <sup>5</sup> x 130%
390.90	days - Total equivalent number of days

- (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 =

302	days - ordinary working days
51	days - rest days
10	days - regular holidays
<u>2</u>	<u>days</u> - special days
365	days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 314 \text{ days}}{12}$$

Where 314 days =

<sup>4</sup> Includes premium for holidays, special days and rest days.

<sup>5</sup> November 1 and December 31 under Executive Order No. 203 dated June 30, 1987.

302 days - ordinary working days  
 10 days - regular holidays  
 2 days - special days (If considered paid; if actually worked,  
 this is equivalent to 2.6 days)

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 314 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 262 \text{ days}}{12}$$

Where 262 days =

250 days - Ordinary working days  
 10 days - regular holidays  
 2 days - special days<sup>1/</sup> (If considered paid; if actually worked, this  
 is equivalent to 2.6 days)

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 262 days - Total equivalent number of days

Note: For workers whose rest day falls on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being a regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them, is included in the ten (10) regular holidays. For workers whose rest days do not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

Section 7. Basis of Minimum Wage Rates. The regional minimum wage rates prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

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 1995-1996 shall be considered as partial or full compliance to the applicable wage increase prescribed in the Order: Provided, that where the share is less than the mandated wage increase, the school shall pay the difference effective at the start of School Year 1996-1997.

Private educational institutions which did not increase tuition fees for School Year 1995-1996 shall implement the increase starting School Year 1996-1997.

Section 9. Workers Paid by Results.

(a) All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the applicable regional minimum wage rates prescribed under the Order for the normal working hours which shall 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 paid by results shall be computed in accordance with the following steps:

- (1) Amount of increase in AMW\* - Previous AMW x 100 = % increase;
- (2) Existing rate/piece x % increase = Increase in rate/piece;
- (3) Existing rate/piece + Increase in rate/piece = Adjusted rate/piece.

\* Where AMW is the applicable minimum wage rate.

(b) The wage rates of workers 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.

Section 10. Wages of Special Groups of Workers. Wages of apprentices, learners and handicapped workers 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 February 22, 1996 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increases prescribed under the Order.

Section 11. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increases shall be borne by the

principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

For purposes of monitoring compliance with the aforementioned requirement, the principal/client or the service contractor shall submit to the Board a copy of the service contract entered by and between them covering the period February 22, 1996 and thereafter, within thirty (30) days from the effectivity of said service contract.

### RULE III CREDITABLE WAGE INCREASE

Section 1. Organized Establishments. No wage increase shall be credited as compliance with the increase prescribed under the Order unless expressly provided under collective bargaining agreements; and, such wage increase was granted not earlier than November 22, 1995 but not later than February 22, 1996.

Section 2. Unorganized Establishments. Wage increases granted by employers without collective bargaining agreements not earlier than August 22, 1995 but not later than February 22, 1996 shall be credited as compliance therewith.

Section 3. Where Creditable Increase is Less Than the Prescribed Increase. In cases where the wage increase granted is less than the prescribed increase under the Order, the employer shall pay the difference. Such increases shall not include anniversary wage increase provided in collective bargaining agreements, merit wage increase, and those resulting from the regularization or promotion of employees.

### RULE IV EXEMPTIONS

Section 1. Workers Not Covered by the Order. Exempted from the provisions of the Order are household or domestic helpers, including family drivers and workers in the personal service of another.

Section 2. Who May Be Exempted. The following establishments may be exempted from compliance with the wage increase prescribed under the Order upon application with and as determined by the Board in accordance with the Revised Guidelines on Exemption issued by the Commission:

- (a) Retail/Service establishments regularly employing not more than ten (10) workers;
- (b) Distressed establishments whose invested capital or paid-up capital have been impaired by at least twenty-five percent (25%) or which register capital deficiency i.e. negative networth;
- (c) Banks under receivership or liquidation.

Section 3. Filing of Application for Exemption.

(a) Procedure

- (1) An application, in two (2) typewritten copies may be filed with the Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. Application shall be filed not later than sixty (60) days from the date of the effectivity of the Order. The date of mailing shall be deemed as the date of filing.
- (2) The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 3 (b) Rule IV hereof. 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) Documents Required - The following supporting documents shall be submitted together with the application:

For All Categories of Exemption:

- (1) Proof of notice of filing of the application to the President of the union/ contracting party if one is organized in the establishment, or if there is no union, a copy of a circular giving general notice of the filing of the application to all the workers in the establishment. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.
- (2) Establishment's Profile to be prescribed by the Board.

For Retail/Service Establishments Employing not more than ten (10) workers:

- (3) Affidavit from employer regarding the following:
  - (i) Principal economic activity;
  - (ii) Number of employees.
- (4) Business Permit for the current year from the Office of the City/Mayor, SEC, DTI or CDA registration.

For Distressed Establishments:

- (3) Available audited financial statements (together with the notes thereto) for the last 2 full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the BIR and SEC.
- (4) Interim quarterly financial statements (together with the notes thereto) for the period immediately preceding the effectivity of the Order.
- (5) Income tax returns for the last 2 taxable periods filed with and stamped "received" by the BIR.
- (6) Quarterly income tax returns for the period immediately preceding the effectivity of the Order filed with and stamped "received" by the BIR.

For non-stock, non-profit organizations that do not charge fees for services rendered and whose revenues are derived primarily from donations, items (3) and (5) only.

For Banks under Receivership/Liquidation:

- (3) Certification from the Bangko Sentral ng Pilipinas/Philippine Deposit Insurance Corporation that it is under receivership/ liquidation.

The Board may require the submission of other documents to support the application for exemption.

Section 4. Criteria for Exemption. The following criteria shall be used to determine whether the applicant establishment is qualified for exemption:

- (a) For Retail/Service Establishments regularly employing not more than ten (10) employees:
  - (1) It is engaged in the retail sale of goods and/or services to end users for personal or household use.
  - (2) It is regularly employing not more than ten (10) workers.
- (b) For Distressed Establishments:

- (1) In the case of stock corporation/cooperative, the accumulated losses for the last two (2) full accounting periods and interim period, if any, immediately preceding the effectivity of the Order have impaired by at least twenty-five percent (25%) the paid-up capital or registers capital deficiency i.e. negative stockholders' equity at the end of the last full accounting period preceding the effectivity of the Order;
  - (2) In the case of single proprietorship/partnership, the accumulated losses for the last 2 full accounting periods and interim period, if any, immediately preceding the effectivity of the Order have impaired by at least twenty-five percent (25%) the total invested capital or registers capital deficiency i.e. negative networth at the beginning of the last full accounting period preceding the effectivity of the Order;
  - (3) In the case of non-stock, non-profit organizations, the total revenues during the year preceding the effectivity of the Order have declined by at least ten percent (10%) from previous year.
- (c) For banks under receivership or liquidation, when there is a certification from the Bangko Sentral ng Pilipinas/ Philippine Deposit Insurance Corporation that it is under receivership or liquidation on account of insolvency.

Banks under controllership/conservatorship may apply for exemption as a distressed establishment under Section 4 (b), Rule IV hereof.

Section 5. Duration and Extent of Exemption. Exemptions granted shall be for a period of one (1) year from the effectivity of the Order for all categories of exemption. However, distressed establishments under Section 4 (b), Rule IV hereof which register at least 20% but less than 25% capital impairment or at least 7.5% but less than 10% decline in revenues, as the case may be, shall be granted partial exemption with respect to the amount and period of exemption.

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

Section 7. Effect of Disapproved Application for Exemption. In the event that the application for exemption is not granted, the workers and employees shall receive the appropriate compensation due them as provided for under the Order plus interest of one percent (1%) per month retroactive to February 22, 1996.

Section 8. Motion for Reconsideration. An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt thereof and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.

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.

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

- (a) Non-conformity with the prescribed guidelines 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.

## RULE V WAGE DISTORTION

Section 1. Effect on Existing Wage Structure.

(a) Where the application of the wage increase prescribed in the Order results in distortions in the wage structure within an establishment, the wage distortions may be resolved using the following formula:

$$\frac{\text{Minimum Wage Rate under WO \#RB 1-03}}{\text{Present Salary}} \times \text{Minimum Wage Adjustment} = \text{Amount of adjustment due to distortion}$$

(b) Any dispute arising from wage distortion shall be resolved through the grievance procedure under the collective bargaining agreement and, if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

(c) In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and, if it remains unresolved after ten (10) calendar days of conciliation, shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). It shall be mandatory for the NLRC to conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

Section 2. Effect of a Dispute Arising from Wage Distortion. The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of the wage increase prescribed in the Order.

## RULE VI SPECIAL PROVISIONS

Section 1. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase prescribed under the Order shall be filed with the Regional Office of the Department in Region I 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 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 3. 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 4. Penal Provision. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase under the Order shall be punished by a fine not exceeding P25,000 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 5. Effects on Other Issuances. The provisions of existing laws and decrees on wages and their implementing rules and regulations and issuances not otherwise repealed, modified or inconsistent with the Order and this Rules shall continue to have full force and effect.

Section 6. Separability Clause. If any provision or part of the Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 7. Effectivity. This Rules shall take effect on February 22, 1996.

Done in San Fernando, La Union, Republic of the Philippines this 23rd day of February 1996.

(SGD) CARLOS S. REYES  
Employers' Representative

(SGD) DEMETRIO E. RUIZ, JR.  
Workers' Representative

(SGD) SEGUNDINA G. VELASCO  
Workers' Representative

(SGD) LEONARDO N. QUITOS, JR.  
Vice-Chairman

(SGD) FLORANTE O. LEAL  
Vice-Chairman

(SGD) GUERRERO N. CIRILO, CESO II  
Chairman

Approved this \_\_\_\_ day of March 1996.

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