

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 1-05
PRESCRIBING NEW REGIONAL MINIMUM WAGE RATES

WHEREAS, the recent increases in transport fares, prices of basic commodities and services and the projected impact of oil deregulation necessitate a review of current regional minimum wage levels;

WHEREAS, notwithstanding the absence of a petition for wage increase, the Board, in the exercise of its wage-fixing function and in order to determine whether conditions obtaining in the region warrant the issuance of a wage order, conducted motu proprio a series of public hearings and sectoral consultations;

WHEREAS, the Board recognizes the need to adjust the 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;

WHEREAS, there is need to encourage the growth of small enterprises, cooperatives, cottage/handicraft business and other similar livelihood projects and undertakings in order to strengthen the rural economy and uplift the level of global competitiveness consistent with the regional as well as national economic development plans;

WHEREAS, the Board recognizes the need to generate more employment opportunities and investments in the countryside in order to reduce the unemployment rate which is currently more than the existing national average;

WHEREAS, there is need to safeguard the small retail and service establishments and the informal sector due to the high incidence of wage violations and in order to ensure realistic wage levels and protect the job security of workers;

WHEREAS, the Board realizes the need to eliminate disparities between and among regions with similar levels of development in order to encourage and promote fair competition in regional as well as national development;

WHEREAS, there is a need to simplify the wage structure and eliminate the salary ceiling in order to facilitate the efficient and effective enforcement of wage standards.

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. The daily regional minimum wage rates of all workers and employees in the private sector in Region I shall be as follows:

SECTOR	NEW MINIMUM WAGE RATES	
	Upon effectivity of this Wage Order	Effective June 1, 1997
Non-Agriculture		
Cooperatives and small manufacturing enterprises with capital of not more than P5M and employing not more than 20 workers	132.00	137.00
Others	140.00	148.00
Retail/Service		
Regularly employing more than 10 workers	135.00	140.00
Regularly employing not more than 10 workers	105.00	110.00
Cottage/Handicraft		
Employing more than 30 workers	113.00	118.00
Employing not more than 30 workers	111.00	118.00
Private Educational Institutions		
Charging tuition fees of more than P5,000.00 per student/pupil in one school term	140.00	148.00
Charging tuition fees of not more than P5,000.00 per student/pupil in one school term	135.00	140.00
Private Hospitals and Clinics		
With bed capacity of more than 30	135.00	140.00
With bed capacity of not more than 30	133.00	138.00
Agriculture		
Plantation	120.00	125.00
Non-Plantation	100.00	105.00

Section 2. The minimum wage rates prescribed in this Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

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. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 1996-1997 shall be considered as partial or full compliance to the applicable prescribed adjustment: Provided, that where the share is less than the mandated adjustment, the school shall pay the difference effective at the start of School Year 1997-1998.

Private educational institutions which did not increase tuition fees for School Year 1996-1997 may defer implementation of the Order until the beginning of School Year 1997-1998.

Section 5. All workers paid by results, including those who are paid on piecework, takay, pakyaw or task basis, shall receive not less than the prescribed wage rates per eight (8) hour work a day, or a proportion thereof for working less than eight (8) hours.

Section 6. Wages of apprentices, learners and handicapped workers shall in no case be less than seventy-five percent (75%) of the minimum wage rates prescribed under 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 prescribed wage rates.

Section 7. In the case of contracts for construction projects and for security, janitorial and similar services, the adjustments in the new prescribed 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.

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 from the effectivity of the Order and thereafter, within thirty (30) days from the effectivity of the said contract. Further, the service contractors shall secure clearances from the Regional Office of the Department in the region prior to operation starting upon the effectivity of the Order and every year thereafter.

Section 8. The minimum wage rates of workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

The minimum wage rates of workers working in branches or agencies of establishments in or outside the region shall be those applicable in the place where they are stationed.

Section 9. 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. Distressed establishments as defined in the NWPC Guidelines No. 01, Series of 1996;
2. New business enterprises (NBEs) as defined in the NWPC Guidelines No. 01, Series of 1996;

Section 10. An application for exemption from compliance with this Order, under oath and in three (3) legible copies, may be filed with the Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail not later than sixty (60) days from the date of the publication of the Rules Implementing this Order.

Section 11. A full exemption of one (1) year shall be granted to all categories of exemption of establishments that meet the applicable criterion for exemption prescribed in the Rules Implementing this Order. However, in the case of distressed establishments, the Board has the discretion to grant partial exemption of 50% with respect to the amount or period of exemption.

Section 12. 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.

Section 13. In the event that the application for exemption is not approved, covered workers shall receive the appropriate compensation due them as provided for by this Order retroactive to the date of effectivity of this Order plus simple interest of one percent (1%) per month.

Section 14. This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employer.

Section 15. Complaints for non-compliance with the minimum wage rates prescribed in this Order shall be filed with the Regional Office of the Department in the region and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 16. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the applicable wage rate prescribed in this Wage Order shall be subject to the penalties specified under RA 6727 as amended by RA 8188.

Section 17. 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 of each year in accordance with the form prescribed by the Commission.

Section 18. 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 Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and employers.

Section 19. 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 payment to the employees affected by the Order of the corresponding wage adjustment, in the event such Order is affirmed.

Section 20. 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 21. 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 22. 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, 12 February 1997.

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

(SGD) CARLOS S. REYES
Member
Employers' Representative

(SGD) ELISEO P. FLORA
Member
Workers' Representative

(SGD) REYNALDO O. DYQUIANGCO
Member
Employers' Representative

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

(SGD) FLORANTE O. LEAL
Vice-Chairman

(SGD) MAXIMO B. LIM
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 1-05

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 21 of Wage Order No. RB 1-05, 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 1-05.

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

- (a) "Order" refers to Wage Order No. RB 1-05.
- (b) "Commission" refers to the National Wages and Productivity Commission.
- (c) "Board" refers to 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) "Minimum Wage" is the lowest wage rate fixed by the Board that an employer can pay his workers.
- (f) "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.

- (g) "Cooperative" refers to a duly registered association of persons who voluntarily join together to form a business establishment which they themselves own, control and patronize and which may fall under any of the following types: credit, consumers, producers, marketing, service or multi-purpose.
- (h) "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.
- (i) "Retail Establishment" refers to 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.

- (j) "Service Establishment" refers to one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such.

- (k) “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.
- (l) “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.
- (m) “Plantation Agricultural Enterprise” is 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 “Non-Plantation Agricultural Enterprise”.
- (n) “Distressed Establishments” refer to establishments which meet the criteria enumerated in Section 3 A of the NWPC Guidelines No. 1, Series of 1996.
- (o) “New Business Enterprises” refer to establishments, including non-profit institutions, established within two (2) years from effectivity of the Wage Order based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and Mayor’s Office.
- (p) “Capital” refers to paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships.
- (q) “Full Accounting Period” refers to a period of twelve (12) months or one year of business operations.
- (r) “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.
- (s) “Stock Corporation” refers to one organized for profit and issues shares of stock to its members.
- (t) “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.
- (u) “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.
- (v) “Single Proprietorship” refers to a business unit owned and controlled by only one person.
- (w) “Quasi-banks” refer to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.
- (x) “Department” refers to the Department of Labor and Employment.

RULE II WAGE INCREASE

Section 1. Coverage. The wage increase prescribed under the Order shall apply to all covered 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 distressed establishments when exempted from compliance with the Order, for a period fixed by the Board in accordance with Section 9 of the Order and Rule III of this Rules;
- (c) Workers and employees in New Business Enterprises (NBEs), when exempted from compliance with the Order, for a period fixed by the Board in accordance with Section 9 of the Order and Rule III of this Rules;

Section 2. Daily Regional Minimum Wage Rates. The daily regional minimum wage rates of workers and employees shall be as follows:

SECTOR	NEW MINIMUM WAGE RATES	
	Effective March __, 1997	Effective June 1, 1997
A. NON-AGRICULTURE		
Cooperatives and small manufacturing enterprises with capital of not more than P5,000,000.00 and employing not more than 20	132.00	137.00
Others	140.00	148.00
RETAIL/SERVICE	135.00	140.00
Regularly employing not more than 10 workers	105.00	110.00
COTTAGE/HANDICRAFT		
Employing more than 30 workers	113.00	118.00
Employing not more than 30 workers	111.00	116.00
PRIVATE EDUCATIONAL INSTITUTIONS		
Charging Tuition Fees of more than P5,000.00 per student/pupil in one school term	140.00	148.00
Charging Tuition Fees of not more than P5,000.00 per student/pupil in one school term	135.00	140.00
PRIVATE HOSPITALS AND CLINICS		
With bed capacity of more than 30	135.00	140.00
With bed capacity of not more than 30	133.00	138.00
AGRICULTURE		
Plantation	120.00	125.00
Non-Plantation	100.00	105.00

Section 3. Basis for Minimum Wage Rates. The 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 4. 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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable daily wage rate (ADR)} \times 391.5 \text{ days}^1}{12}$$

Where 391.5 days = 302 days - ordinary working days

18 days - 9 regular holidays x 200%
 2.6 days - 1 regular holiday falling on last Sunday of August x 200% + (30% of 200%)
 66.3 days - 51 rest days x 130%
 2.6 days - 2 special days^{2/} x 130%

 391.5 days - Total equivalent number of days

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

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

Where 365 days =
 302 days - ordinary working days
 51 days - rest days
 10 days - regular holidays
 2 days - special days^{2/}

 365 days - Total equivalent number of days

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

$$EMR = \frac{ADR \times 314.6^{1/} \text{ days}}{12}$$

Where 314.6 days =
 302.0 days - ordinary working days
 10.0 days - regular holidays
 2.6 days - 2 special days^{1/} (if worked) x 130%

 314.6 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

$$EMR = \frac{ADR \times 262.6^{2/} \text{ days}}{12}$$

Where 262.6 days =
 250.0 days - Ordinary working days
 10.0 days - regular holidays
 2.6 days - 2 special days^{1/} (if worked) x 130%

 262.6 days - Total equivalent number of days

 1/ November 1 and December 31 under Executive Order No. 203 dated June 30, 1987.
 2/ Includes premium for holidays, special days and rest 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 5. 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 1996-1997 shall be considered as partial or full compliance to the applicable prescribed adjustment in the Order: Provided, that where the share is less than the mandated adjustment, the school shall pay the difference effective at the start of School Year 1997-1998.

Private educational institutions which did not increase tuition fees for School Year 1996-1997 may defer the implementation of the Order until the beginning of School Year 1997-1998.

Section 6. 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 7. 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 March 5, 1997 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the prescribed wage rates under the Order.

Section 8. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the adjustments in the new prescribed 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.

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 March 5, 1997 and thereafter, within thirty (30) days from the effectivity of said service contract. Further, the service contractors shall secure clearances from the Regional Office of the Department in the region prior to operation starting upon the effectivity of the Order and every year thereafter.

Section 9. Mobile and Branch Workers. The minimum wage rates of workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

The minimum wage rates of workers working in branches or agencies of establishments in or outside the region shall be those applicable in the place where they are stationed.

RULE III
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 Order upon application with and as determined by the Board in accordance with NWPC Guidelines No. 01, Series of 1996:

- (a) Distressed establishments

(b) New Business Enterprises

Section 3. Criteria for Exemption. The following criteria shall be used to determine whether the applicant-establishment is qualified for exemption:

A. Distressed Establishments

1. For Stock Corporations/Cooperatives

- a. When 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
- b. 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.

2. For Single Proprietorships/Partnerships

- a. Single proprietorships/partnerships operating for at least two (2) years may be granted exemption:
 - a.1 When the net accumulated losses for the last two (2) full accounting periods preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review; or
 - a.2 When an establishment registers capital deficiency i.e., negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.
- b. Single proprietorships/partnerships operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review.

3. For Non-stock Non-profit Organizations

- a. Non-stock non-profit organizations operating for at least two (2) years may be granted exemption:
 - a.1 When the net accumulated losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period under review; or
 - a.2 When an establishment registers capital deficiency i.e., negative fund balance/members' contribution as of the last full accounting period immediately preceding the effectivity of the Order.
- b. Non-stock non-profit organizations operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period under review.

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 that it is under receivership or liquidation as provided in Section 30 of RA 7653, 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 3 A of this Rules.

B. New Business Enterprises

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

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

Section 4. Documents Required. The following supporting documents shall be submitted together with the application:

For All Categories of Exemption:

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

A. For Distressed Establishments

1. For corporations, cooperatives, single proprietorships, partnerships, non-stock non-profit organizations:
 - a. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last two (2) full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriate government agency.
2. For Banks and Quasi-banks:
 - a. Certification from the Bangko Sentral ng Pilipinas that it is under receivership/liquidation.

B. For New Business Enterprises:

1. Affidavit from employer regarding the following:
 - a. Principal economic activity
 - b. Date of registration with appropriate government agency
 - c. Amount of total assets
2. Certificate of registration from the appropriate government agency.

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

Section 5. Application for Projects/Branches/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 6. 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 7. Extent and Duration of Exemption. A full exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria under Section 3 Rule III of this Rules.

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

a. For corporations/cooperatives

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

b. For single proprietorships/partnerships

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

c. Non-stock non-profit organizations

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

Section 8. Procedures on Exemption.

A. For Filing an Application

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

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

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

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

3. The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 4 of this Rule. 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. For Filing of Opposition

Any worker 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 fifteen (15) day period shall run only upon receipt of complete supporting documents. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

C. 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 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.

D. 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 with 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 9. 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 10. 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 March 5, 1997.

RULE IV SPECIAL PROVISIONS

Section 1. Freedom to Bargain. The Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employer.

Section 2. 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 3. 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 4. 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 5. 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 6. Penal Provision. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed wage rate under the 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 years nor more than four (4) years or both such fine and imprisonment at the discretion of the court: Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

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

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 7. 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 of each year in accordance with the form prescribed by the Commission.

Section 8. 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 9. Effectivity. This Rules shall take effect on March 5, 1997, fifteen (15) days after the complete publication of the Order in a newspaper of general circulation in the region.

Done in San Fernando, La Union, Republic of the Philippines this 12th day of February 1997.

(SGD) CARLOS S. REYES
Member
Employers' Representative

(SGD) REYNALDO O. DYQUIANGCO
Member
Employers' Representative

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

(SGD) ELISEO P. FLORA
Member
Workers' Representative

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

(SGD) FLORANTE O. LEAL
Vice-Chairman

(SGD) MAXIMO B. LIM
Chairman

Approved this 25th day of March 1997.

(SGD) CRESENCIANO B. TRAJANO
Acting Secretary