

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 1-06

PROVIDING FOR AN ACROSS-THE-BOARD DAILY WAGE INCREASE OF
TEN PESOS TO AGRICULTURE AND COTTAGE INDUSTRY AND
EIGHTEEN PESOS TO OTHER PRIVATE SECTOR
WORKERS IN REGION I

WHEREAS, the recent devaluation of the peso brought about by the currency crisis in the ASEAN region triggered increases in the prices of goods and services thereby necessitating a review of the current regional minimum wage levels;

WHEREAS, in the exercise of its wage-fixing function and in order to determine whether conditions obtaining in the region continue to meet the needs of workers and their families as well as the requirements of business and industry, the Board, motu proprio conducted sectoral consultations on November 11, 1997;

WHEREAS, by virtue of the petition filed on November 27, 1997 by the Associated Labor Unions - Trade Union Congress of the Philippines (ALU-TUCP) for a P48.00/day across-the-board wage increase in the non-agriculture sector in the region, the Board conducted a series of public hearings;

WHEREAS, results of the sectoral consultations and public hearings show that there is a need to provide for an across-the-board wage increase to enable the workers in the region to cope with the rising costs of living without hampering the growth of business and industry;

WHEREAS, the Board also recognizes the need to cushion the impact of the "El Niño phenomenon" on agriculture and the cottage industry;

NOW THEREFORE, by virtue of the power and authority vested in it 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, all private sector workers and employees in the agriculture and cottage industry in Region I shall be entitled to a Ten Peso (P10.00) per day across-the-board wage increase to be given as follows:

AMOUNT OF INCREASE	EFFECTIVITY
P5.00 per day	March 5, 1998
P5.00 per day	July 1, 1998

Private sector workers and employees in the other sectors shall receive an Eighteen Peso (P18.00) per day across-the-board wage increase to be given in the following manner:

AMOUNT OF INCREASE	EFFECTIVITY
P8.00 per day	March 5, 1998
P10.00 per day	July 1, 1998

Section 2. The increases prescribed in this Order shall apply to all workers in the private sector regardless of their position, designation or status and irrespective of the method by which their wages are paid.

Section 3. Household or domestic helpers and persons employed in the personal service of another, including family drivers are not covered by the provisions of this Wage Order.

Section 4. In the case of private educational institutions, the increases provided herein shall be effective at the beginning of School Year 1998-1999, provided that wage increases granted to its workers and employees from the tuition fee increases for School Year 1997-1998 shall be considered as compliance

with this Wage Order; Provided further, that where the share is less than the mandated wage increase, the school shall pay the difference effective at the start of School Year 1998-1999.

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 applicable minimum wage rates. 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 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 increases, 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.

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

In any case, where such increases are less than the prescribed increases 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 15. 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 employers.

Section 16. Pursuant to the Board's policy of exploring other methods of augmenting the income of workers, employers and workers are encouraged to adopt Productivity Incentives Programs where productivity gains shall be shared among them and ultimately contribute to the growth of the business and industry.

Section 17. Complaints for non-compliance with the wage increases 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 18. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increases in this Wage Order shall be subject to the penalties specified under RA 6727 as amended by RA 8188.

Section 19. 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 20. 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 21. 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 increase, in the event such Order is affirmed.

Section 22. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board.

Section 23. 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 24. This Wage Order shall take effect on March 5, 1998 after its publication in at least one (1) newspaper of general circulation in the region.

Approved.

San Fernando, La Union, Philippines, 23 December 1997.

(SGD) CARLOS S. REYES
Member
Employers' Representative

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

(SGD) REYNALDO O. DYQUIANGCO
Member
Employers' Representative

(SGD) ELISEO P. FLORA
Member
Workers' Representative

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

(SGD) FLORANTE O. LEAL
Vice-Chairman

(SGD) RICARDO S. MARTINEZ, SR.
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 1-06

Pursuant to Section 5, Rule IV, of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 23 of Wage Order No. RB 1-06, the following rules are hereby issued for guidance and compliance by all concerned:

RULE I
GENERAL PROVISIONS

Section 1. Title. This Rules shall be known as the Rules Implementing Wage Order No. RB 1-06.

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

- (a) “*Order*” refers to Wage Order No. RB 1-06.
- (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) (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.
- (y) “*Productivity Incentives Program*” refers to a formal agreement voluntarily established by the labor-management committee within an establishment containing a productivity improvement program that will promote gainful employment, improve working conditions, maintain industrial peace and result in increased productivity, including cost savings, as well as a productivity gainsharing program whereby the employees are granted productivity bonuses.

RULE II
WAGE INCREASE

Section 1. Amount of Wage Increase. Upon the effectivity of the Order, the daily wage rates of all private sector workers and employees in the agriculture and cottage industry in Region I shall be increased by TEN PESOS (P10.00) to be given as follows:

AMOUNT	EFFECTIVITY
P 5.00 per day	March 5, 1998
P 5.00 per day	July 1, 1998

Private sector workers and employees in all other sectors in Region I shall receive an EIGHTEEN PESO (P18.00) increase to be given in the following manner:

AMOUNT	EFFECTIVITY
P 8.00 per day	March 5, 1998
P10.00 per day	July 1, 1998

Section 2. Coverage. The wage increases 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 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 3. Daily Regional Minimum Wage Rates. The daily regional minimum wage rates of workers and employees shall be as follows:

SECTOR	MINIMUM WAGE RATES		
	Under W.O. No. RB 1-05 (as of June 1, 1997)	Under W.O. No. RB 1-06 (effective March 5, 1998)	Under W.O. No. RB 1-06 (effective July 1, 1998)
NON-AGRICULTURE			
Cooperatives and small manufacturing enterprises with capital of not more than P5,000,000.00 and employing not more than 20 workers	137.00	145.00	155.00
Others	148.00	156.00	166.00
RETAIL/SERVICE			
Regularly employing more than ten (10) workers	140.00	148.00	158.00
Regularly employing not more than ten (10) workers	110.00	118.00	128.00
COTTAGE/HANDICRAFT			
Employing more than 30 workers	118.00	123.00	128.00
Employing not more than 30 workers	116.00	121.00	126.00
PRIVATE EDUCATIONAL INSTITUTIONS			
Charging Tuition Fees of more than P5,000.00 per student/pupil in one school term	148.00	148.00	166.00 ^{1/}
Charging Tuition Fees of not more than P5,000.00 per student/pupil in one school term	140.00	146.00	158.00 ^{1/}
PRIVATE HOSPITALS AND CLINICS			
With bed capacity of more than 30	140.00	130.00	158.00
With bed capacity of not more than 30	138.00	110.00	156.00
AGRICULTURE			
Plantation	125.00		135.00
Non-Plantation	105.00		115.00

1/ Pursuant to Sec. 4 of the Order and Sec. 6 Rule II of this Rules, the P18/day increase takes effect at the start of School Year 1998-1999.

Section 4. 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 5. Suggested Formula in Determining the Equivalent Monthly Regional Minimum Wage Rates. Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly regional minimum wage rates:

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

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

Where 391.5 days =

$$\begin{aligned} & 302 \text{ days - ordinary working days} \\ & 18 \text{ days - 9 regular holidays} \times 200\% \\ & 2.6 \text{ days - 1 regular holiday falling on last Sunday of} \\ & \quad \text{August} \times 200\% + (30\% \text{ of } 200\%) \\ & 66.3 \text{ days - 51 rest days} \times 130\% \\ & \underline{2.6 \text{ days}} - 2 \text{ special days}^2/ \times 130\% \\ & 391.5 \text{ days - Total equivalent number of days} \end{aligned}$$

- (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 =

$$\begin{aligned} & 302 \text{ days - ordinary working days} \\ & 51 \text{ days - rest days} \\ & 10 \text{ days - regular holidays} \\ & \underline{2 \text{ days}} - \text{special days}^1/ \\ & 365 \text{ days - Total equivalent number of days} \end{aligned}$$

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

$$\text{EMR} = \frac{\text{ADR} \times 314.6^2/ \text{ days}}{12}$$

Where 314.6 days =

$$\begin{aligned} & 302.0 \text{ days - ordinary working days} \\ & 10.0 \text{ days - regular holidays} \\ & \underline{2.6 \text{ days}} - 2 \text{ special days}^1/ \text{ (if worked)} \times 130\% \\ & 314.6 \text{ days - Total equivalent number of days} \end{aligned}$$

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

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

Where 262.6 days =

$$\begin{aligned} & 250.0 \text{ days - Ordinary working days} \\ & 10.0 \text{ days - regular holidays} \\ & \underline{2.6 \text{ days}} - 2 \text{ special days}^1/ \text{ (if worked)} \times 130\% \\ & 262.6 \text{ days - Total equivalent number of days} \end{aligned}$$

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 6. Application to Private Educational Institutions. In the case of private educational institutions, the increases provided herein shall be effective at the beginning of School Year 1998-1999, provided that wage increases granted to its workers and employees from the tuition fee increases for School Year 1997-1998 shall be considered as compliance with this Wage Order; Provided further, that where the share is less than the mandated wage increase, the school shall pay the difference effective at the start of School Year 1998-1999.

Section 7. 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) $\frac{\text{Amount of increase in AMW} \times 100}{\text{Previous AMW}} = \% \text{ increase};$

* Where AMW is the applicable minimum wage rate.

(2) Existing rate/piece x % increase = Increase in rate/piece;

(3) Existing rate/piece + Increase in rate/piece = Adjusted rate/piece.

- (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 8. 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, 1998 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the wage increases prescribed under the Order.

Section 9. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers 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 increase, 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, 1998 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.

Section 10. 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. Household or domestic helpers, including family drivers and workers in the personal service of another are not covered by the provisions of the Order.

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 (NBEs) established outside Export Processing Zones 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 No. I.

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 approved, covered workers shall receive the appropriate compensation due them as provided for under the Order retroactive to the date of the effectivity of the wage increases plus simple interest of one percent (1%) per month.

RULE IV CREDITABLE INCREASE

Section 1. Organized Establishments. If expressly provided and agreed upon in the collective bargaining agreements, wage increases granted by employers not earlier than December 5, 1997 but not later than March 5, 1998 shall be credited as compliance with the prescribed increases under the Order.

Section 2. Unorganized Establishments. Wage increases granted by employers without collective bargaining agreements not earlier than September 5, 1997 but not later than March 5, 1998 shall be credited as compliance therewith.

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

RULE V 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 employers.

Section 2. Adoption of Productivity Incentives Programs. Pursuant to the Board's policy of exploring other methods of augmenting the income of workers, employers and workers are encouraged to adopt Productivity Incentives Programs where productivity gains shall be shared among them and ultimately contribute to the growth of the business and industry.

Section 3. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase prescribed under the Order shall be filed with the Department of Labor and Employment - Regional Office No. I and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 4. 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 5. 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 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. 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 8. 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 9. 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, 1998.

Done in San Fernando, La Union, Republic of the Philippines this 14th day of January 1998.

(SGD) CARLOS S. REYES
Member
Employer's Representative

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

(SGD) REYNALDO O. DYQUIANGCO
Member
Employer's Representative

(SGD) ELISEO P. FLORA
Member
Workers' Representative

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

(SGD) FLORANTE O. LEAL
Vice-Chairman

(SGD) RICARDO S. MARTINEZ, SR.
Chairman

Approved this 4th day of February, 1998.

(SGD) CRESENCIANO B. TRAJANO
Acting Secretary