



Section 2 - COVERAGE

All private sector workers and employees receiving the minimum wage in the region are covered by the provisions of this Wage Order regardless of their position, designation or status of employment and irrespective of the method their wages are paid. Not covered under this Wage Order are household or domestic helpers and persons employed in the personal service of another including family drivers.

Section 3 - BASIS OF MINIMUM WAGE

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

Section 4 - CREDITABLE WAGE INCREASE

- a. If expressly provided and agreed upon in the Collective Bargaining Agreements, wage increases granted by employers within three (3) months prior to the effectivity of this Order shall be credited as compliance with the new minimum wage rates prescribed herein.
- b. Wage increases granted by non-unionized establishments within six (6) months prior to the effectivity of this Order shall also be credited as compliance therewith.
- c. Wage increases granted by unionized establishments but without Collective Bargaining Agreements within six (6) months prior to the effectivity of this Order shall also be credited as compliance therewith.
- d. The reasonable amount of board and lodging and other facilities customarily given by the employer or as may be agreed upon by the parties may also be considered as compliance with the new minimum wage rates prescribed herein provided it is in accordance with DOLE Department Order No. 33, series of 1991.
- e. In cases where the wage increases or the cost of facilities granted through an appropriate facility evaluation order are less than the prescribed increases in this Order, the employer shall pay the difference. Such increases shall not include anniversary wage increases provided in Collective Bargaining Agreements, merit wage increases and those resulting from the regularization or promotion of employees.

Section 5 - WORKERS PAID BY RESULTS

All workers paid by results, including those who are paid on piecework, "takay", "pakyaw" or task basis, shall be entitled to receive the prescribed new minimum wage rate per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 6 - WAGES OF SPECIAL GROUPS OF WORKERS

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

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

Section 7 - APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS

In the case of private educational institutions, the prescribed minimum wage increase shall take effect starting school year 2001 to 2002, whether or not they will increase their tuition fees during the said school

year. Provided, however, that the employees' share in the incremental proceeds from the tuition fee increase pursuant to Republic Act 6728 shall be credited as compliance to the Wage Order, unless otherwise provided and stipulated in the Collective Bargaining Agreement. Provided, further, that where the employees' share in the tuition fee increase is lower than the prescribed wage increase, the employer shall pay the difference.

Section 8 - APPLICATION TO CONTRACTORS

In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed adjustments in the wage rates of the workers 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 or new minimum 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 reckoned from the effectivity of this Order and thereafter, within thirty (30) days from the effectivity of the said service contract.

Further, the service contractors shall secure clearances from the Regional Office of the Department of Labor and Employment prior to the start of operation.

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 within or outside the Region shall be those applicable in the place where they are domiciled or stationed.

Section 10 - TRANSFER OF PERSONNEL

The transfer of personnel from one region to another shall not be valid for the reduction of the wage rate being enjoyed by the workers prior to such transfer. The workers transferred to other regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

Section 11 - EXEMPTIONS

Upon application with and as determined by the Board in accordance with the applicable Rules and Regulations issued by the Commission, the following maybe exempted from the coverage of this Order, to wit:

1. Distressed establishment as defined in the NWPC Guidelines No. 01, series of 1996;
2. New Business Enterprises duly registered and established outside Export Processing Zone within two (2) years from effectivity of this Order classified under any of the following:
 - a. Agricultural establishments whether plantation or non-plantation; and
 - b. Establishments with total assets after financing of five million (P5,000,000.00) pesos and below.

Section 12 - DURATION AND EXTENT 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 of NWPC Guidelines No. 01, Series of 1996 as amended.

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

Section 13 - EFFECT OF APPLICATION FOR EXEMPTION

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

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

Section 14 - APPEAL TO THE COMMISSION

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

Section 15 - EFFECT OF FILING OF APPEAL

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

Section 16 - EFFECTS ON EXISTING WAGE STRUCTURE

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

Section 17 - REVIEW OF THE MINIMUM WAGE STRUCTURE

The Board shall continue to conduct a regular review of the existing minimum wage structure for the purpose of determining whether it continues to be responsive to the situation obtaining in the region and simplifying the same for the efficient administration and implementation of wage standards.

Section 18 - COMPLAINTS FOR NON-COMPLIANCE

Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE-Region I) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 19 - NON-DIMINUTION OF BENEFITS

Nothing in this Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 20 - PENAL PROVISION

Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase/allowance/rates in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 21 - 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 22 - FREEDOM TO BARGAIN

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

Section 23 - REPORTING REQUIREMENT

Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2001 and every year thereafter in accordance with the form prescribed by the Commission.

Section 24 - REPEALING CLAUSE

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

Section 25 - IMPLEMENTING RULES

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

Section 26 - SEPARABILITY CLAUSE

If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 27 - EFFECTIVITY

This Wage Order shall take effect on December 15, 2000.

APPROVED this 12th day of December 2000, San Fernando City, Philippines.

(Sgd) ELISEO P. FLORA
Member, Workers' Representative

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

(Sgd) REYNALDO O. DYQUIANGCO
Member, Employers' Representative

**(Sgd) FLORANTE O.
LEAL** Vice-Chairman, DTI

(Sgd) LEONARDO N. QUITOS JR.
Vice-Chairman, NEDA

(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 - I
City of San Fernando

Rules Implementing Wage Order No. RB 1-08

Rule I - General Provisions

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 25 of Wage Order No. RB 1-08, the following rules are hereby issued for the information, guidance and compliance of all concerned.

Section 1. TITLE

This Rules shall be known as the "Rules Implementing Wage Order No. RB 1-08"

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

- (1) "*Order*" refers to Wage Order No. RB 1-08.
- (2) "*Commission*" refers to the National Wages and Productivity Commission.
- (3) "*Board*" refers to the Regional Tripartite Wages and Productivity Board in Region I.
- (4) "*Region I*" covers the provinces of Ilocos Norte, Ilocos Sur, La Union and Pangasinan and the cities of Urdaneta, Dagupan, Laoag, San Carlos and San Fernando.
- (5) "*Wage*" shall mean the remuneration or earnings, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the same, which is payable by an employer to an employee under a written or unwritten contract of employment for work done or to be done, or for services rendered or to be rendered and includes the fair and reasonable value, as determined by the Secretary of Labor and Employment, of board, lodging or other facilities customarily furnished by the employer to the employee. "Fair and reasonable value" shall not include any profit to the employer, or to any person affiliated with the employer.
- (6) "*Basic Wage*" shall mean all the remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost-of-living-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 workers on the date Republic Act No. 6727 became effective.
- (7) "*COLA*" refers to the Cost of Living Allowance in addition to the basic wage granted by the Regional Tripartite Wages and Productivity Board - I under this Wage Order.
- (8) "*Minimum Wage*" is the lowest wage rate fixed by the Board that an employer can pay his workers.
- (9) "*Establishment*" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location. For purposes of determining eligibility for exemption, establishments under the same owner/s but separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.
- (10) "*Cooperative*" refers to association of persons who voluntarily join together to form a business establishment which they themselves own, control and patronize and which may fall under any of the following types: credit, consumers, producers, marketing, service or multi-purpose and duly registered with the Cooperative Development Authority (CDA). Provided, that for purposes of this Order, they shall have a capitalization of not more than P5,000,000.00 regardless of employment size.

(11) *"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.

(12) *"Small Manufacturing Enterprises"* refer to manufacturing enterprises with capitalization of not more than P5,000,000.00 regardless of employment size.

(13) *"Category"* refers to business activities listed in the Philippine Standard Industry Classification (PSIC).

(14) *"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.

(15) *"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.

(16) *"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 P1,500,000.00 regardless of previous registration with the defunct NACIDA.

(17) *"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.

(18) *"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".

(19) *"Distressed Establishments"* refer to establishments which meet the criteria enumerated in Section 3 A of the NWPC Guidelines No. 1, series of 1996.

(20) *"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.

(21) *"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.

(22) *"Full Accounting Period"* refers to a period of twelve (12) months or one year of business operations.

(23) *"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.

(24) *"Stock Corporation"* refers to one organized for profit and issues shares of stock to its members.

(25) *"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.

(26) *"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.

(27) *"Single Proprietorship"* refers to a business unit owned and controlled by only one person.

(28) *"Quasi-banks"* refer to institutions such as investment houses and financing companies defined and under the direct supervision of the Bangko Sentral ng Pilipinas performing quasi-banking functions and shall include lending institutions, pawnshops, other financial intermediaries and the like.

(29) *"Basic Education"* refers to pre-schools, elementary and secondary schools under the Department of Education, Culture and Sports (DECS).

(30) *"Tertiary Education"* refers to post-secondary technical schools under the Technical Education Skills and Development Authority (TESDA) and colleges and universities under the Commission on Higher and Education (CHED).

(31) *"Special Schools"* refers to those offering specialized training and pre-school programs such as montessori system, driving, diving and the like as may later be ruled by the Board.

(32) *"Department"* refers to the Department of Labor and Employment.

(33) *"Others"* refer to business establishments not elsewhere classified in this Wage Order.

(34) *"Primary Hospital"* equipped with the service capabilities needed to support licensed physicians rendering services in Medicine, Pediatrics, Obstetrics and minor surgery.

(35) *"Secondary"* equipped with the service capabilities needed to support licensed physicians rendering services in the field of Medicine, Pediatrics, Obstetrics and Gynecology, General Surgery and other ancillary services.

(36) *"Tertiary"* refers to fully departmentalised and equipped with the service capabilities needed to support certified medical specialist and other licensed physicians rendering services in the field of Medicine, Pediatrics, Obstetrics and Gynecology, Surgery, their sub-specialties and ancillary services.

Rule II - New Minimum Wage Rates

Section 1. - AMOUNT OF NEW DAILY MINIMUM WAGE RATES - Upon the effectivity of this Wage Order, the daily minimum wage rates applicable to workers and employees in the private sector in the region inclusive of P5.00 Cost of Living Allowance (COLA), shall be as follows:





Section 2. COVERAGE - All private sector workers and employees receiving the minimum wage in the region are covered by the provisions of the Wage Order regardless of their position, designation or status of employment and irrespective of the method their wages are paid.

Section 3. BASIS OF MINIMUM WAGE - The minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 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:

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

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

2/ Includes premiums for holidays, special days and rest days.

Where 365 days =

302 days - ordinary working days
51 days - rest days
10 days - regular holidays
2 days - special days^{1/}
365 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 314.62 / \text{days}}{12}$$

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

$$\text{EMR} = \frac{\text{ADR} \times 262.62 / \text{days}}{12}$$

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

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. SPECIAL FEATURES OF THE COST OF LIVING ALLOWANCE - Cost of Living Allowances granted to employees in compliance with the Order need not be considered as part of the wage of the employees for purposes of determining overtime and premium pay, fringe benefits and premium contributions to the state insurance fund, social security, medicare and maternity pay and private welfare and retirement plans.

Section 6. COST OF LIVING ALLOWANCE FOR UNWORKED DAYS

- a) All covered employees shall be entitled to their daily cost of living allowance during the days that they are paid their basic wage even if unworked;

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

2/ Includes premiums for holidays, special days and rest days.

- b) An employee who is on leave of absence but is receiving employee's compensation, social security or maternity leave benefits in lieu of wages, shall be entitled to the allowance provided herein, in proportion to such compensation or benefits. Provided, that such employee shall be paid his full daily cost of living allowance if he is paid his full basic wage;

- c) The cost of living allowance of part time employees shall not be less than the amount in proportion to the time they actually work.

Section 7. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS - In the case of private educational institutions, the prescribed minimum wage increase provided herein shall be effective at the beginning of School Year 2001-2002, whether or not they have increased their tuition fees during the said school year. Provided, however, that the employees' share in the incremental proceeds from the tuition fee increases pursuant to Republic Act 6728 shall be credited as compliance to the Wage Order. Provided, further, that where the employees' share in the tuition fee increases is lower than the prescribed wage increase, the employer shall pay the difference.

Section 8. 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:

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

*Where AMW is the applicable minimum wage rate.

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

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

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

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

Section 10. 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 December 15, 2000 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 of Labor and Employment prior to start of operation.

Section 11. 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.

Section 12. TRANSFER OF PERSONNEL - The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to the other Regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

Section 13. APPEAL TO THE COMMISSION - Any party aggrieved by the Wage Order may file an appeal

with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

Section 14. EFFECT OF APPEAL - The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

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 as amended:

- (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 or interim period, if any, 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 or interim period, if any, 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 are required to be submitted together with the application, to wit;

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;
 - b. Audited interim quarterly financial statements (together with the Auditor's opinion and the notes thereto) for the period immediately preceding the effectivity of the Wage Order.
2. For Banks and Quasi-banks:
 - a. Certification from the Bangko Sentral ng Pilipinas that it is under controllership/censorship/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 as the case maybe.

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 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 or interim period, if any, 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 seventy-five (75) days from the date of 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 the 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. ESTABLISHMENTS WITH COLLECTIVE BARGAINING AGREEMENTS - If expressly provided and agreed upon in the collective bargaining agreements, wage increases granted by employers three (3) months prior to the effectivity of the Order shall be credited as compliance.

Section 2. ESTABLISHMENTS WITHOUT COLLECTIVE BARGAINING AGREEMENTS - Wage increases granted by employers without collective bargaining agreements six (6) months prior to the effectivity of the Order shall also be credited as compliance therewith.

Section 3. CREDITABLE VALUE OF FACILITIES - The reasonable amount of board and lodging and

other facilities furnished by an employer or as may be agreed upon by the parties provided they are among those included under Article 97 (f) of the Labor Code, as amended, and Sections 5, 6 and 7, Rule VII, Book III of its Implementing Rules and Regulations may also be considered as compliance with the new minimum wage rates prescribed herein. Provided, that the creditable value of said facilities should consider only as compliance the increases or improvements in the board, lodging and other facilities and not the existing amount of facilities which have been credited or earlier provided to the employees/workers. Provided, further, that the Facility Determination shall be in accordance with Department Order No. 33, Series of 1991 and the creditable value of said facilities shall apply only in this Wage Order.

Section 4. 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. EFFECT ON EXISTING WAGE STRUCTURE - Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortion through the grievance procedure under their Collective Bargaining Agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred by voluntary arbitration.

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 (NCMB) and if it remains unresolved after ten (10) calendar days of conciliation, the same be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

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

Section 2. COMPLAINTS FOR NON-COMPLIANCE - Complaints for non-compliance with the wage increase prescribed under 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 3. CONDUCT OF INSPECTION BY THE DEPARTMENT - The Department of Labor and Employment (DOLE) shall conduct inspection of establishments, as often as necessary, to determine whether workers are paid the new minimum wage rates prescribed in the Wage Order and other benefits granted by law or any Wage Order.

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. 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 6. REPORTING REQUIREMENT - Any person, company, corporation, partnership or any entity engaged in business shall submit annually a verified itemized listing of their labor component to the Regional Board not later than January 31, 2001 and every year thereafter in accordance with Section 3 of RA 6727 in relation to Art. 124 of the Labor Code as amended, and the form as prescribed by the Commission.

Section 7. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board.

Section 8. REVIEW OF THE MINIMUM WAGE STRUCTURE. The Board shall continue to conduct a regular review of the existing minimum wage structure for the purpose of determining whether it continues to be responsive to the economic situation obtaining in the region and simplifying the same for efficient administration and implementation of wage standards.

Section 9. 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 (2) 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. In the case of establishments which applied for and was subsequently granted exemption but did not however implement the wage increase prescribed under this Order after the expiration of the exemption period granted, the double indemnity provision of the law shall commence from the date the exemption period expired;

In the case however of establishments which applied for exemption and was subsequently denied but did not immediately implement the wage increase prescribed under this Order, the double indemnity provision of the law shall commence from the date of issuance of the final order of denial. Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposable under RA 6727, as amended by RA 8188.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner.

Section 10. 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 11. 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 12. EFFECTIVITY - This Rules shall take effect on December 15, 2000.

Done in San Fernando City, Republic of the Philippines this 12th day of December 2000.

ELISEO P. FLORA
Member, Workers' Representative

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

REYNALDO O. DYQUIANGCO
Member, Employers' Representative

**FLORANTE O.
LEAL**
Vice-Chairman, DTI

LEONARDO N. QUITOS JR.
Vice-Chairman, NEDA

MAXIMO B. LIM
Chairman

Approved:

BIENVENIDO E. LAGUESMA
Secretary
Department of Labor and Employment

Annex A

ADVISORY DISTORTION FORMULA

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

Computational example:

Assume:

Category	Others	Retail/Service employing more than 10 workers
Mandated wage increase	P7.00 daily	P9.00 daily
Existing minimum wage	P190.00 daily	P178.00 daily
Employee receives	P195.00	P180.00 daily
Wage distortion adjustment	$= \frac{P190.00}{P195.00} \times P7.00$	$= \frac{P178.00}{P180.00} \times 9.00$
	= 0.97435 x 7.00	= 0.9888 x 9.00
	= P6.82	= P8.90
	= P6.82 + P195.00	= P8.90 + P180.00
New daily rate	= P 201.82	= P 188.90