

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

**WAGE ORDER NO. RB 1-09**  
**Setting New Minimum Wage Rates in Region I**

**WHEREAS**, the Board is mandated by law to fix the minimum wage rates in the region, province and/or industry as the case may be;

**WHEREAS**, pursuant to its mandate of rationalizing minimum wage rates and consistent with the policy providing safety-net protection to workers against unduly low wages, and considering the continuing increase in world oil prices and depreciation of the peso and their effects on prices of basic goods and services, the Board recognizes the need to increase minimum wage rates to help workers and their families cope with the rising cost of living;

**WHEREAS**, to address the above concerns, the Board acted motu proprio to review existing minimum wage rates and conducted a series of public consultations/hearings to gather the views of concerned sectors in the following provinces, namely:

Place	Date
Vigan City, Ilocos Sur	July 8, 2004
Laoag City, Ilocos Norte	July 9, 2004
San Fernando City, La Union	July 15, 2004
Dagupan City, Pangasinan	July 16, 2004
San Carlos City, Pangasinan	August 12, 2004

**WHEREAS**, in order to determine the amount of wage increases, the Board is guided by its Wage Derivation Model based on the International Labor Organization (ILO) Framework taking into consideration the following mandated criteria and other economic indicators, to wit:

1. Needs of Workers and their families;
2. Capacity of Employers to Pay;
3. Requirements for Economic Development;
4. Comparative Regional Development and Minimum Wage levels; and
5. Growth Rate of Gross Regional Domestic Product by Industrial Origin and Development prospects.

**WHEREAS**, consistent with its avowed policy to rationalize the fixing of minimum wages, the Board adopted the Philippine Standard Industrial Classification (PSIC) as the basis in adopting new wage classifications for the following reasons;

1. It provides a standard basis for industry classification which is responsive and descriptive of the socio-economic conditions obtaining in the Region;
2. It provides for the availability of data and information that are reflective of the Industry Classifications which would ensure a more reliable basis for regular review, monitoring and assessment on the impact of a wage issuance; and
3. It facilitates the efficient and effective enforcement and administration of a wage issuance.

**WHEREAS**, the new wage structure takes into consideration the classification by asset size as an incentive to promote business growth; sustain the viability of Micro, Small and Medium Establishments which are dominant in the Region; and encourage the equitable distribution of wealth, synergy and competition in economic opportunities along different industry sectors;

**NOW THEREFORE**, by virtue of the power and authority vested upon it by 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 I. NEW DAILY MINIMUM WAGE RATES**

Upon the effectivity of this Wage Order, the daily minimum wage rates of workers and employees in the private sector in the Region shall be increased as follows:

- a) By P2.00 to P10.00 in the basic wage depending on the category sector;
- b) An additional P5.00 COLA per day shall be provided to all covered workers and employees.

Category/Sector	PSIC Division Code*	Under W.O. No. RB 1-08		W.O. Under No. RB 1-09	
		Basic	COLA	Basic	COLA
<b>Agriculture/Hunting/Forestry</b>	01-05				
> Plantation		161.00	5.00	166.00	10.00
> Non-Plantation		136.00	5.00	141.00	10.00
<b>Fishing</b>	06	136.00	5.00	141.00	10.00
<b>Mining and Quarrying</b>	10 - 11	185.00	5.00	190.00	10.00
<b>Manufacturing</b>	15 - 39				
> Small		170.00	5.00	175.00	10.00
> Medium/Large		185.00	5.00	190.00	10.00
<b>Electricity/Gas/Water</b>	40 - 41	185.00	5.00	190.00	10.00
<b>Construction</b>	45	185.00	5.00	190.00	10.00
<b>Wholesale and Retail Trade, Repair of Motor Vehicle, Motor Cycle and Personal &amp; Household Goods</b>	50 - 52				
> Small		173.00	5.00	175.00	10.00
> Medium/Large/Wholesale		185.00	5.00	190.00	10.00
<b>Hotels and Restaurant</b>	55	173.00	5.00	175.00	10.00
<b>Transport, Storage &amp; Communication</b>	60 - 64	185.00	5.00	190.00	10.00
<b>Financial Intermediation</b>	65 - 68	185.00	5.00	190.00	10.00
<b>Real Estate, Renting &amp; Business Activities</b>	70 - 74	185.00	5.00	190.00	10.00
<b>Education</b>	80 - 81			190.00	10.00
> Basic		180.00	5.00	190.00	10.00
> Tertiary		182.00	5.00	190.00	10.00
> Special Schools		185.00	5.00	190.00	10.00
<b>Health and Social Work</b>	85				
> Primary Care Hospitals/Clinics		175.00	5.00	180.00	10.00
> Secondary Care Hospitals		180.00	5.00	185.00	10.00
> Tertiary Care Hospitals/ Social Work	185.00	5.00	190.00	10.00	
<b>Other Community, Social &amp; Personal Service Activities</b>	90				
> Community& Social Activities		185.00	5.00	190.00	10.00
> Personal Service Activities		173.00	5.00	175.00	10.00
Category/Sector	PSIC Division Code*	Under W.O. No. RB 1-08		Under W.O. No. RB 1-09	
		Basic	COLA	Basic	COLA
<b>Business Establishments falling under any of the categories below having an asset of not more than</b>					

<b>P3 Million exclusive of land as of the effectivity of this Order shall have the following wage rates:</b>					
a. Retail Trade, Repair of Motor Vehicle, Motor Cycle and Personal and Household Goods/ Personal Service Activities/Hotels and Restaurants					
> Employing not more than 10 employees		145.00	5.00	150.00	10.00
> Employing more than 10 employees		173.00	5.00	175.00	10.00
b. Manufacturing > Micro		145.00	5.00	150.00	10.00
c. Cooperatives		170.00	5.00	175.00	10.00

\* Based on the PSIC of 1994

**SECTION 2. MINIMUM WAGE RATES APPLICABLE TO BUSINESS ESTABLISHMENTS WITH MULTIPLE BUSINESS ACTIVITIES:**

The minimum wage rate applicable to business establishments performing multiple business activities not separately registered with any appropriate government agency shall be determined in accordance with their dominant business activity based on their gross revenue.

**SECTION 3. COVERAGE**

All private sector workers and employees receiving the minimum wage rates 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 by this Wage Order are the following:

- a. Household or domestic helpers and persons employed in the personal service of another including family drivers.
- b. Workers and employees hired by establishments after their registration as Barangay Micro Business Enterprises (BMBE) with Certificates of Authority pursuant to Republic Act 9178.

**SECTION 4. 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 5. 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 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. Anniversary wage increases provided in Collective Bargaining Agreements, merit wage increases and those resulting from their regularization or promotion of employers shall not be credited as compliance

## **SECTION 6. 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 7. WAGES OF SPECIAL GROUPS OF WORKERS AND EMPLOYEES**

Wages of apprentices and 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 8. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS**

In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2004-2005 shall be considered as compliance with the applicable minimum wage rates prescribed herein unless otherwise provided and stipulated in the Collective Bargaining Agreement. However, payment of any difference in the minimum wage rates set forth herein shall be given starting School Year 2005-2006.

Private Educational Institutions which did not increase their tuition fees for the School Year 2004-2005 may defer compliance with the provisions of this Wage Order until School Year 2005-2006.

In any case, all Private Educational Institutions shall implement the minimum wage rates prescribed herein starting School Year 2005-2006 whether or not they will increase their tuition fees during the said school year.

## **SECTION 9. 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 and employees 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.

## **SECTION 10. MOBILE AND BRANCH WORKERS/EMPLOYEES**

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

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

## **SECTION 11. TRANSFER OF WORKERS AND EMPLOYEES**

The transfer of workers and employees from one region to another shall not diminish the wage rates being enjoyed by them prior to such transfer. The workers and employees transferred to other regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

## **SECTION 12. EXEMPTIONS**

Upon application with and as determined by the Board in accordance with the applicable Rules and Regulations issued by the Commission, distressed establishments as defined in the NWPC Guidelines No. 01, series of 1996 may be exempted from the coverage of this Order.

### **SECTION 13. DURATION AND EXTENT OF EXEMPTION**

Establishments that applied for exemption and found qualified shall be granted a maximum of one (1) year exemption period from the effectivity of this Order except for distressed establishments which maybe granted either full or partial exemption with respect to the amount and period of exemption, as the case may be, subject to the requirements of the NWPC Guidelines No. 01, series of 1996, as amended.

### **SECTION 14. 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 workers and employees of the applicant-establishment shall be paid the prescribed minimum wage rates under this Order plus one percent (1%) simple interest per month retroactive to the effectivity of this Order.

### **SECTION 15. 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 16. EFFECT OF FILING OF APPEAL**

The filing of the appeal does not operate to stay this 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 workers and employees affected by the Order in the event such Order is affirmed.

### **SECTION 17. 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 18. 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 as well as rationalizing and simplifying the same for the efficient administration and implementation of wage standards.

### **SECTION 19. 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 20. 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/employees and employers.

### **SECTION 21. PENAL PROVISION**

Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in this Order, shall be punished by a fine of not less than P25,000.00

nor more than P100,000.00 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 pursuant to the provision of Section 12 of R.A. 6727, as amended by R.A. 8188.

#### **SECTION 22. 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 23. 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 24. ALTERNATIVE MODE OF INCREASING WORKERS WAGES THRU PRODUCTIVITY IMPROVEMENT PROGRAMS**

As mandated by law, the prescribed minimum wages herein only provide for a safety net protection to the lowest paid workers. Relative thereto, employers are hereby encouraged to implement flexible wage adjustments as a mode of increasing workers wages above the minimum through the adoption of Productivity Improvement Programs and Gainsharing Mechanism at the firm level.

In further improving business results to meet the demands for an enhanced standard of living, employers and workers may adopt the ISTIV Productivity Awareness Program (ISTIV-PAP) and other Productivity initiatives of the Commission and/or this Board.

#### **SECTION 25. 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, 2005 and every year thereafter in accordance with the form prescribed by the Commission.

#### **SECTION 26. REPEALING CLAUSE**

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

#### **SECTION 27. IMPLEMENTING RULES**

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

#### **SECTION 28. 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 29. EFFECTIVITY**

This Wage Order shall take effect fifteen (15) days following the completion of its publication in a newspaper of general circulation.

**APPROVED** this 29th day of September 2004, San Fernando City, La Union, Philippines.

(SGD)**ELISEO P. FLORA**  
Member, Workers' Representative

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

**(SGD)JERRY V. PARLAN**  
Member, Employers' Representative

**(SGD)FLORANTE O. LEAL**  
Vice-Chairman and  
Regional Director, DTI

**(SGD)LEONARDO N. QUITOS, JR.**  
Vice-Chairman and  
Regional Director, NEDA

**(SGD)GUERRERO N. CIRILO, CESO II**  
Chairman and  
Regional Director, DOLE

Attested by:

**(SGD)EXEQUIEL A. GUZMAN**  
Board Secretary VI

Published in the "Ilocos Herald" on October 27, 2004  
Effectivity Date: November 11, 2004

Republic of the Philippines  
 Department of Labor and Employment  
 National Wages and Productivity Commission  
**Regional Tripartite Wages and Productivity Board**  
 Region I  
 City of San Fernando, La Union

**RESOLUTION NO. 1**  
**Series of 2004**

**RESOLUTION TO AMEND SECTION 1 ON NEW DAILY  
 MINIMUM WAGE RATES OF WAGE ORDER NO. RB 1-09**

**WHEREAS**, pursuant to its mandate of rationalizing the setting of minimum wages, the Board resolves that the category/sector on Fishing (PSIC Division Code No. 06) shall be further disaggregated in order to achieve a regional wage structure that is consistent with and responsive to the socio - economic condition in the region, into the following sub-categories namely:

- a) Commercial Fishing
- b) Small/Municipal Fishing

**NOW THEREFORE**, by virtue of the powers 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 the following amendments to Wage Order No. RB 1-09, to wit:

Category/Sector	PSIC Division Code*	Under W.O. No. RB 1-08		W.O. Under No. RB 1-09	
		Basic	COLA	Basic	COLA
<b>Agriculture/Hunting/Forestry</b>	01-05				
> Plantation		161.00	5.00	166.00	10.00
> Non-Plantation		136.00	5.00	141.00	10.00
<b>Fishing</b>	06	136.00	5.00		
> Small/Municipal Fishing				141.00	10.00
> Commercial Fishing				190.00	10.00
<b>Mining and Quarrying</b>	10 - 11	185.00	5.00	190.00	10.00
<b>Manufacturing</b>	15 - 39				
> Small		170.00	5.00	175.00	10.00
> Medium/Large		185.00	5.00	190.00	10.00
<b>Electricity/Gas/Water</b>	40 - 41	185.00	5.00	190.00	10.00
<b>Construction</b>	45	185.00	5.00	190.00	10.00
<b>Wholesale and Retail Trade, Repair of Motor Vehicle, Motor Cycle and Personal &amp; Household Goods</b>	50 - 52				
> Small		173.00	5.00	175.00	10.00
> Medium/Large/Wholesale		185.00	5.00	190.00	10.00
<b>Hotels and Restaurant</b>	55	173.00	5.00	175.00	10.00
<b>Transport, Storage &amp; Communication</b>	60 - 64	185.00	5.00	190.00	10.00
<b>Financial Intermediation</b>	65 - 68	185.00	5.00	190.00	10.00
<b>Real Estate, Renting &amp; Business Activities</b>	70 - 74	185.00	5.00	190.00	10.00
<b>Education</b>	80 - 81				
> Basic		180.00	5.00	190.00	10.00

> Tertiary		182.00	5.00	190.00	10.00
> Special Schools		185.00	5.00	190.00	10.00
<b>Health and Social Work</b>	85				
> Primary Care Hospitals/Clinics		175.00	5.00	180.00	10.00
> Secondary Care Hospitals		180.00	5.00	185.00	10.00
> Tertiary Care Hospitals/ Social Work		185.00	5.00	190.00	10.00
<b>Other Community, Social &amp; Personal Service Activities</b>	90				
> Community & Social Activities		185.00	5.00	190.00	10.00
> Personal Service Activities		173.00	5.00	175.00	10.00
<b>Business Establishments falling under any of the categories below having an asset of not more than P3 Million exclusive of land as of the effectivity of this Order shall have the following wage rates:</b>					
a. Retail Trade, Repair of Motor Vehicle, Motor Cycle and Personal and Household Goods/ Personal Service Activities/Hotels and Restaurants					
> Employing not more than 10 employees		145.00	5.00	150.00	10.00
> Employing more than 10 employees		175.00	5.00	175.00	10.00
b. Manufacturing					
> Micro		145.00	5.00	150.00	10.00
c. Cooperatives		170.00	5.00	175.00	10.00

\*Based on the PSIC of 1994

**RESOLVED FURTHER**, that this Amendment to Wage Order No. RB 1-09 shall take effect retroactive November 11, 2004.

Unanimously Approved.

Done in the City of San Fernando, La Union, this 28th day of December 2004.

(SGD)**ELISEO P. FLORA**  
Member, Workers' Representative

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

(SGD)**JERRY V. PARLAN**  
Member, Employers' Representative

(SGD)**SALVADOR R. POSERIO**  
Member, Employers' Representative

(SGD)**FLORANTE O. LEAL**  
Vice-Chairman and  
Regional Director, DTI

(SGD)**LEONARDO N. QUITOS, JR.**  
Vice-Chairman and  
Regional Director, NEDA

(SGD)**GUERRERO N. CIRILO, CESO II**  
Chairman and  
Regional Director, DOLE

**RULES IMPLEMENTING WAGE ORDER NO. RB 1-09**  
**RULE I**  
**GENERAL PROVISIONS**

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 27 of Wage Order No. RB 1-09, 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 1-09."

**SECTION 2. DEFINITION OF TERMS:**

**a. Terms defined under the Implementing Rules of R.A. 6727 and Wage Order No. RB 1-09.**

- (1) "Order" refers to Wage Order No. RB 1-09.
- (2) "Department" refers to the Department of Labor and Employment.
- (3) "Commission" refers to the National Wages and Productivity Commission.
- (4) "Board" refers to the Regional Tripartite Wages and Productivity Board in Region I.
- (5) "Region I" covers the Provinces of Ilocos Norte, Ilocos Sur, La Union and Pangasinan and the Cities of Laoag, Vigan, Candon, San Fernando, Urdaneta, Dagupan, San Carlos and Alaminos.
- (6) "Wage" shall mean the remuneration or earning, 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 a worker/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 worker/employee. "Fair and reasonable value" shall not include any profit to the employer, or to any person affiliated with the employer.
- (7) "Basic Wage" shall mean all the remuneration or earning paid by an employer to a worker/employee 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.
- (8) "COLA" refers to the Cost of Living Allowance granted by the Regional Tripartite Wages and Productivity Board - I under this Wage Order.
- (9) "Minimum Wage" is the lowest wage rate fixed by the Board consisting of basic wage and COLA, if there is any.
- (10) "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.
- (11) "Agriculture" refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activities performed by a farmer or on a farm as incident to or in conjunction with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products.
- (12) "Plantation Agricultural Enterprise" refers to an establishment 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."

**b. Terms defined under NWPC Guidelines No. 1, Series of 1996**

- (13) "Distressed Establishments" refer to establishments which meet the criteria enumerated in Section 3A of the NWPC Guidelines No. 1, Series of 1996.
- (14) "Capital" refers to paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital or fund balance/members contribution at the beginning of the period under review, in the case of partnerships, single proprietorships, and non-profit/non-stock organizations respectively.
- (15) "Full Accounting Period" refers to a period of twelve (12) months or one (1) year of business operations.
- (16) "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.
- (17) "Stock Corporation" refers to one organized for profit and issues shares of stock to its members.
- (18) "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.
- (19) "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.
- (20) "Single Proprietorship" refers to a business unit owned and controlled by only one person.
- (21) "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.

**c. Terms defined under the Philippine Standard Industrial Classification (PSIC) of 1994.**

- (22) "Category" refers to business activities listed in the 1994 Philippine Standard Industrial Classification (PSIC).
- (23) "Fishing" refers to commercial and municipal fishing, aquaculture, the gathering of marine products such as seaweeds, sponges, sea shells, pearls, oysters and other shellfish from oceans, seas, lakes, rivers, rice fields and fish farms, and the provision of fishery services on a fee or contract basis.

As defined further under the Bureau of Agricultural Statistics (BAS) - 2000 Philippine Statistical Year Book, Commercial Fishing refers to the sector of fisheries that includes the catching of fish in marine waters with the use of fishing boat of more than three (3) gross tons and beyond seven (7) kilometres shoreline limit.

- (24) "Mining and Quarrying" refers to the extraction and preparation for further processing of solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gas. Underground and surface mines, quarries and wells, and all supplemental activities by beneficiating ores and pre-processing other crude materials are likewise included. In the case of mining enterprises that provide hospitals, schools and other social activities to its employees, these activities, if possible should be shown as separate activities of the enterprise otherwise, these are also considered part of mining. Excluded in this classification are the following: preparation of mining sites and similar work performed by other establishments on a fee basis; bottling of natural springs and mineral water; and crushing and grinding rocks to produce gravel when carried out by units whose activity is not quarrying.
- (25) "Manufacturing" refers to the mechanical or chemical transformation of organic or inorganic 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 workers' home, and whether the products are sold at

wholesale or retail. Also included are establishments whose activity is the assembly of component parts in factories, such as the assembly of automobiles or electric equipment, the assembly and installation of machinery and equipment in the establishment of the users, and the repair of machinery and equipment belonging to other producers on a contract basis, the bottling of natural springs and mineral water and the crushing and grinding of rocks to produce gravel by enterprises whose main activity is not quarrying. In the case of a manufacturing establishment's purchases of products and sales of these products at the same state as that in which they were purchased, these are treated as a secondary activity of this manufacturing establishment. Similarly, activities carried out in connection with the main manufacturing activity, such as the production of goods in their workshops, the operation of cafeterias or bakeries, the printing of books, pamphlets and postcards, and minor own-account construction are considered secondary activities of manufacturing.

The term "Micro" as a sub-category of Manufacturing which falls under the major category of "Business establishments having an asset of not more than P3 Million exclusive of land" shall refer only to Cottage Industries.

- (26) "Electricity, Gas and Water" refers to the generation, transmission and distribution of electricity to households, industrial, and commercial users; the manufacture and distribution of pipeline gas or natural gas; and the collection, purification and distribution of water.
- (27) "Construction" refers to the activities of establishments engaged mainly in the putting up of buildings and structures and other land improvements. It also includes other related activities such as the provision of technical/engineering services, or the manufacture of construction materials in cases of horizontally integrated construction firms.
- (28) "Wholesale Trade" refers to the resale (sale without transformation) of new and used goods in bulk to retailers; to industrial, commercial institutions or professional users; to other wholesalers; and to the government, wholesale merchants, industrial distributors, exporters and importers; separate sales offices maintained by manufacturing enterprises and their agents; commodity exchanges; petroleum bulk stations; assemblers, buyers and cooperative marketing associations for the selling of farm products at wholesale price, and includes among others, wholesalers who physically assemble, sort and grade goods in large lots; break bulk, repack and bottle (except in airtight containers) and redistribute in smaller lots; store, refrigerate, deliver and install goods; and engage in sales promotion for customers; and scrap metal, waste and junk dealers and yards.
- (29) "Retail Trade" refers to resale of new and used goods to the general public for personal or household consumption or utilization. A retail establishment that regularly engages in wholesale activities loses its retail character.
- (30) "Repair of Personal and Household Goods" refers to repair of personal and household goods when not done in combination with manufacture or wholesale or retail sale of these goods.
- (31) "Hotels and Restaurants" refer to all establishments engaged in selling prepared food and drinks for consumption within its premises including caterers and independently operated dining car services and canteens in plants, offices and clubs. This also includes the provision, on a fee basis, of lodging and camping space and facilities, whether open to general public or restricted to members of a particular organization. Lodging facilities operated by clubs, enterprises and the government are classified under this sector if activities are separated.
- (32) "Transport, Storage & Communication" refers to the transport of passenger and freight by land, water and air, and services related to this operation like the operation of all roads, terminal facilities, piers, airports and the like. It also covers services allied to transport such as forwarding, travel and inspection agencies, ship and aircraft brokers and the operation of warehouse and storage facilities. Communication includes mail express service, telephone, radio and related services.
- (33) "Financial Intermediation" refers to the activities of banking institutions, non-bank, financial intermediaries and insurance and pension except compulsory, social and activities auxiliary to financial intermediation.
- (34) "Real Estate, Renting, & Business Activities" refer to the renting, management and operation of residential buildings, the subdivision and

development of land into building lots, the operation of residential and industrial estates, cemetery development and sale, and the activities of real estate agents, brokers and managers engaged in renting, buying, selling, managing, appraising real estate on a fee or contract basis. Business activities covers the activities of institutions rendering legal services, accounting, auditing and bookkeeping services, computer services, data processing and tabulating services, engineering, architectural development, commercial art work, market research services, advertising services, employment services, detective and protective services, and other business activities.

- (35) "Education" refers to the services rendered by private educational institutions under the Department of Education, (DepEd), including post-secondary technical schools, colleges and universities under the Technical Education Skills and Development Authority (TESDA) and the Commission on Higher and Education (CHED) respectively.
- (36) "Other Community, Social and Personal Activities" refer to the activities of private profit-making establishments and own-account workers engaged in motion picture production, distribution and projection; radio and television broadcasting; theatrical production and entertainment; and other amusement and recreational services, such as the operation of dance halls and studios, race tracks, circuses, and others. Also included are institutions engaged in the provision of domestic services, laundry, repair, and funeral services. Services rendered by barbershops, beauty shops, and photographic studios are also included under personal services. It also includes activities of membership organizations.

**d. Terms defined under the SMED Council Resolution No. 3, Series of 2003**

- (37) "Assets" refer to all kind of properties, real or personal owned by the establishment and used for the conduct of its business.
- (38) "Micro Establishment" refers to an economic activity with assets of less than P3 Million.
- (39) "Small Enterprise" refers to establishment with assets of P3 Million but not more than P15 Million.
- (40) "Medium Enterprise" refers to establishment with assets of P15 Million but not more than 100 Million.
- (41) "Large Enterprise" refers to establishment with assets of more than P100 Million.

**e. Terms defined under DOH A. O. No. 147, Series of 2004**

- (42) "Health and Social Works" refer to services provided by private institutions such as medical, dental and other health services including veterinary services.
- (43) "Primary Care Hospital" refers to a non-departmentalized hospital that provides the following: Clinical care and management on the prevalent diseases in the locality; appropriate administrative and ancillary services (clinical laboratory, radiology, pharmacy); nursing care for patients who require intermediate, moderate and partial category of supervised care for 24 hours or longer. Clinical services include general medicine, pediatrics, obstetrics and gynecology, surgery and anesthesia. This include Infirmary.
- (44) "Secondary Care Hospital" refers to departmentalized hospital that provides the following: clinical care and management on the prevalent diseases in the locality, as well as particular forms of treatment, surgical procedure and intensive care; appropriate administrative and ancillary services (clinical laboratory, radiology, pharmacy); nursing care provided in the primary care hospital as well as total and intensive skilled care.
- (45) "Tertiary Care Hospital" refers to teaching and training hospital that provides the following: clinical care and management on the prevalent diseases in the locality as well as specialized and sub-specialized forms of treatment, surgical procedure and intensive care; appropriate administrative and ancillary services (clinical laboratory, radiology, pharmacy); nursing care provided in the secondary care hospital as well as continuous and highly specialized critical care. Included in this category are birthing home, Acute Chronic Psychiatric Care Facility and Custodial Psychiatric Care Facility.

**f. Term defined under R. A. 6938 (Cooperative Code of the Philippines)**

(46)"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).

**g. Term defined by the National Internal Revenue Code, Series of 1997**

(47)"Gross Revenue" refers to total receipt or total sales without any deduction of expenses or cost of sales.

**h. Terms defined under the NWPC ISTIV-Productivity Program**

(48)"ISTIV-PAP" is a values-based human resource development approach for improving Quality and Productivity at the enterprise level. It is an acronym which stands for 5 ideal attributes of a productive worker namely: I for Industrious, S for Systematic, T for Time-conscious, I for Innovative and V for strong Values for work.

**i. Term defined under R. A. 9178**

(49)"Barangay Micro Business Enterprise (BMBE)" refers to any business entity or enterprise granted a Certificate of Authority under Republic Act No. 9178.

**RULE II  
NEW MINIMUM WAGE RATES**

**SECTION 1 - AMOUNT OF INCREASE**

Effective November 11, 2004, the daily minimum wage rates of workers and employees in the private sector in the Region shall be increased as follows:

- a) By P2.00 to P10.00 in the basic wage depending on the category/sector;
- b) An additional P5.00 COLA per day shall be provided to all covered workers and employees.

**SECTION 2 - NEW DAILY MINIMUM WAGE RATES**

Effective November 11, 2004, the daily minimum wage rates of workers and employees in the region shall be as follows:

Category/Sector	PSIC Division Code*	Under W.O. No. RB 1-08		W.O. Under No. RB 1-09	
		Basic	COLA	Basic	COLA
<b>Agriculture/Hunting/Forestry</b>	01-05				
> Plantation		161.00	5.00	166.00	10.00
> Non-Plantation		136.00	5.00	141.00	10.00
<b>Fishing</b>	06	136.00	5.00	141.00	10.00
<b>Mining and Quarrying</b>	10 - 11	185.00	5.00	190.00	10.00
<b>Manufacturing</b>	15 - 39				
> Small		170.00	5.00	175.00	10.00
> Medium/Large		185.00	5.00	190.00	10.00
<b>Electricity/Gas/Water</b>	40 - 41	185.00	5.00	190.00	10.00
<b>Construction</b>	45	185.00	5.00	190.00	10.00
<b>Wholesale and Retail Trade, Repair of Motor Vehicle, Motor Cycle and Personal &amp; Household Goods</b>	50 - 52				
> Small		173.00	5.00	175.00	10.00

> Medium/Large/Wholesale		185.00	5.00	190.00	10.00
<b>Hotels and Restaurant</b>	55	173.00	5.00	175.00	10.00
<b>Transport, Storage &amp; Communication</b>	60 - 64	185.00	5.00	190.00	10.00
<b>Financial Intermediation</b>	65 - 68	185.00	5.00	190.00	10.00
<b>Real Estate, Renting &amp; Business Activities</b>	70 - 74	185.00	5.00	190.00	10.00
<b>Education</b>	80 - 81				
> Basic		180.00	5.00	190.00	10.00
> Tertiary		182.00	5.00	190.00	10.00
> Special Schools		185.00	5.00	190.00	10.00
<b>Health and Social Work</b>	85				
> Primary Care Hospitals/Clinics		175.00	5.00	180.00	10.00
> Secondary Care Hospitals		180.00	5.00	185.00	10.00
> Tertiary Care Hospitals/ Social Work		185.00	5.00	190.00	10.00
<b>Other Community, Social &amp; Personal Service Activities</b>	90				
> Community & Social Activities		185.00	5.00	190.00	10.00
> Personal Service Activities		173.00	5.00	175.00	10.00
<b>Business Establishments falling under any of the categories below having an asset of not more than P3 Million exclusive of land as of the effectivity of this Order shall have the following wage rates:</b>					
a. Retail Trade, Repair of Motor Vehicle, Motor Cycle and Personal and Household Goods/ Personal Service Activities/Hotels and Restaurants					
> Employing not more than 10 employees		145.00	5.00	150.00	10.00
> Employing more than 10 employees		175.00	5.00	175.00	10.00
b. Manufacturing					
> Micro		145.00	5.00	150.00	10.00
c. Cooperatives		170.00	5.00	175.00	10.00

### **SECTION 3. COVERAGE**

All private sector workers and employees receiving the minimum wage rates 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 by this Wage Order are the following:

- a. Household or domestic helpers and persons employed in the personal service of another including family drivers.
- b. Workers and employees in Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to Republic Act 9178.

### **SECTION 4. 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 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:

$$\begin{array}{r} \text{Equivalent} \\ \text{Monthly} = \\ \text{Rate (EMR)} \end{array} \quad \frac{\text{Applicable daily wage rate (ADR) x 392.80 days}^1/}{12}$$

Where 392.80days =

- 300 days - ordinary working days
- 20 days - 11 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%
- 3.9 days - 3 special days<sup>2/</sup> x 130%
- 
- 392.80 days - Total equivalent number of days

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

$$\begin{array}{r} \text{ADR x} \\ \text{EMR} = \end{array} \quad \frac{365 \text{ days}}{12}$$

Where 365 days =

- 300 days - ordinary working days
- 51 days - rest days
- 11 days - regular holidays
- 3 days - special days<sup>1/</sup>
- 
- 365 days - Total equivalent number of days

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

$$\begin{array}{r} \text{ADR x} \\ \text{EMR} = \end{array} \quad \frac{314 \text{ days}}{12}$$

Where 314 days =

- 300 days - ordinary working days
- 11 days - regular holidays
- 3 days - 3 special days<sup>1/</sup> (if worked) x 130%
- 314 days - Total equivalent number of days

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

$$\begin{array}{r} \text{ADR x} \\ \text{EMR} = \end{array} \quad \frac{262 \text{ days}}{12}$$

Where 262 days =

- 248 days - Ordinary working days
- 11 days - regular holidays
- 3 days - 3 special days<sup>1/</sup> (if worked) x 130%
- 262 days - Total equivalent number of days

**Note:** For workers/employees 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 eleven (11) 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 share of covered workers and employees in the increase in tuition fees for School Year 2004-2005 shall be considered as compliance with the applicable minimum wage rates prescribed herein. However, payment of any difference in the minimum wage rates set forth herein shall be given starting School Year 2005-2006.

Private Educational Institutions which do not increase their tuition fees for School Year 2004-2005 may defer compliance with the provisions of this Wage Order until School Year 2005-2006.

In any case, all Private Educational Institutions shall implement the minimum wage rates prescribed herein starting School Year 2005-2006 whether or not they will increase their tuition fees during the said school year.

#### **SECTION 7. WORKERS/EMPLOYEES PAID BY RESULTS**

- (a) All workers/employees 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 may 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/employees paid by results shall be computed in accordance with the following steps:

- (1) Amount of increase in AMW\*  
----- X 100 = % increase;  
Previous AMW

\*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/employees 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/EMPLOYEES**

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 this 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/employees 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.

## **SECTION 9. MOBILE AND BRANCH WORKERS/EMPLOYEES**

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

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

## **SECTION 11. 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/employees prior to such transfer. The workers/employees transferred to other regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

## **SECTION 12. 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 this 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 13. EFFECT OF APPEAL**

The filing of the appeal does not operate to stay this 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 workers/employees affected by this Order of the corresponding increase, in the event such Order is affirmed.

### **RULE III EXEMPTIONS**

#### **SECTION 1. WHO MAY BE EXEMPTED.**

Distressed establishments may be exempted from compliance with this Order upon application with and as determined by the Board in accordance with NWPC Guidelines No. 01, Series of 1996 as amended:

#### **SECTION 2. CRITERIA FOR EXEMPTION**

As provided under the NWPC Guidelines No. 01, Series of 1996, (as amended), the following criteria for exemption are hereby prescribed, to wit:

0. When deficit as of the last full accounting period or interim period if any, in the case of Stock Corporations/Cooperatives or when the net accumulated losses for the last two (2) full accounting periods in the case of single proprietorship, partnerships, non-stock and non-profit organizations, preceding the effectivity of the Order amounts to 20% or more of the:
  - a. paid-up capital for the same period in the case of stock corporations/cooperatives;
  - b. total invested capital at the beginning of the period under review in the case of single proprietorships/partnerships; and
  - c. fund balance/members contribution at the beginning of the period under review in the case of non-stock/non-profit organizations.
1. When the aforementioned establishments registered a capital deficiency as of the last full accounting period or interim period, as the case may be, preceding the effectivity of the Order such as:
  - a. negative stockholders equity in the case of stock corporations/cooperatives;
  - b. negative net worth in the case of single proprietorships/partnerships; and
  - c. negative fund balance/members contribution in the case of non-stock, non-profit organizations.

3. Banks and quasi-banks under receivership/liquidation/controllership/conservatorship.

**SECTION 3. DOCUMENTS REQUIRED TO SUPPORT  
THE APPLICATION FOR EXEMPTION:**

1. Proof of Notice of Filing of the application
  - a. addressed to the President of the Union/Contracting Party in the case of unionized establishments; or
  - b. if non-unionized, a copy of circular giving general notice of the filing of the application to all the workers/employees in the establishment.
2. Audited Financial Statements for the last two (2) full accounting periods or Interim Audited Financial Statements preceding the effectivity of the Order together with the Auditor's Opinion and the accompanying notes thereto filed with and stamped "received" by the appropriate government agency.
3. Certification from the Bangko Sentral ng Pilipinas in the case of banks and quasi-banks under Section 2.3 of this Rule.

**SECTION 4. 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 5. 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 workers/employees of the latter assigned to the former.

**SECTION 6. EXTENT AND DURATION OF EXEMPTION**

A full exemption of one (1) year shall be granted to establishments that meet the applicable criteria under Section 2 Rule III of this Rules.

However, a partial exemption of 50% with respect to the amount or period of exemption shall be granted when deficit or net accumulated losses amounts to:

- a. less than 20% of the paid-up capital in the case of corporations and cooperatives;
- and
- b. at least 15% but less than 20% of the total invested capital or fund balance/members contribution at the beginning of the period under review in the case of single proprietorships/partnerships and non-stock/non-profit organizations respectively.

**SECTION 7. PROCEDURES ON EXEMPTION.**

**A. For Filing an Application**

An application in three (3) legible copies may be filed with the Board or with the Department of Labor and Employment Regional, District or Provincial satellite offices by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. The proof of notice, which may be translated in the vernacular, shall state that the workers'/employees' representative was furnished a copy of the application with all the supporting documents and shall be posted in a conspicuous place within the establishment.

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

**B. For Filing of Opposition**

Any worker/employee 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. 1.

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 8. 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 9. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION**

In the event that the application for exemption is not approved, covered workers/employees shall receive the appropriate compensation due them as provided for under this 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 this 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. WHERE CREDITABLE INCREASE IS LESS THAN THE PRESCRIBED INCREASE**

In cases where the wage increases granted 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 workers/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/employees 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 this 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. NON-DIMINUTION OF BENEFITS**

Nothing in this 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 4. FREEDOM TO BARGAIN**

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

#### **SECTION 5. ALTERNATIVE MODE OF INCREASING WORKERS WAGES THRU PRODUCTIVITY IMPROVEMENT PROGRAMS**

As mandated by law, the prescribed minimum wages herein only provide for a safety net protection to the lowest paid workers/employees. Relative thereto, employers are hereby encouraged to implement flexible wage adjustments as a mode of increasing workers/employees wages above the minimum through the adoption of Productivity Improvement Programs and Gainsharing Mechanism at the firm level.

In further improving business results to meet the demands for an enhanced standard of living, employers and workers may adopt the ISTIV Productivity Awareness Program (ISTIV-PAP) and other Productivity initiatives of the Commission and/or this Board.

#### **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 Board not later than January 31, 2005 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 this 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: pursuant to the provision of Section 12 of R. A. 6727, as amended by R. A. 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 this Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this 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 orders, issuances, rules and regulations not otherwise repealed, modified or inconsistent with this Order and this Rules shall continue to have full force and effect.

#### **SECTION 12. EFFECTIVITY**

This Rules shall take effect on 11 November 2004.

(SGD)**ELISEO P. FLORA**  
Member, Workers' Representative

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

(SGD)**JERRY V. PARLAN**  
Member, Employers' Representative

(SGD)**FLORANTE O. LEAL**  
Vice-Chairman and  
Regional Director, DTI

(SGD)**LEONARDO N. QUITOS, JR.**  
Vice-Chairman and  
Regional Director, NEDA

(SGD)**GUERRERO N. CIRILO, CESO II**  
Chairman and  
Regional Director, DOLE