

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region 2
Tuguegarao City

WAGE ORDER NO. RTWPB-II-11

**INCREASING THE MINIMUM WAGE RATES OF WORKERS IN THE
PRIVATE SECTOR IN REGION 2**

WHEREAS, under R.A. 6727 (The Wage Rationalization Act), the Regional Tripartite Wages and Productivity Boards (RTWPBs) are mandated to determine and fix minimum wage rates in their respective regions;

WHEREAS, the RTWPB-II received a petition filed by the Trade Union Congress of the Philippines (TUCP) on May 24, 2006 for a One Hundred (P100.00) peso per day across-the board increase in the daily minimum wage;

WHEREAS, the Board received on July 5, 2006 the position papers of the Isabela Chamber of Commerce and Industry (ICCI) and Isabela Rural Bankers Association (IRBA) to grant an increase of Eight Pesos (P8.00) per day to workers receiving not more than One Hundred Eighty Five (P185.00) Pesos per day;

WHEREAS, the Board conducted consultations with the worker's sector on June 16, 2006 in Tuguegarao City and with the employer's sector on June 23 and 28, 2006 in the Cities of Cauayan and Tuguegarao, respectively, and a public hearing in Santiago City on July 6, 2006 where both labor and management sectors were given the opportunity to present and support their respective positions;

WHEREAS, in both consultations and public hearing, the Board noted the general consensus of labor and management on the need to increase the wages of workers adequate to help them cope with the cost of living without impairing the productivity and viability of business and industry therein;

WHEREAS, consistent with the government's policy of achieving higher levels of productivity to promote economic growth and generate employment, and to augment the income of workers, there is a need to build the capacity of business enterprises to be competitive through productivity improvement and gain sharing programs.

NOW, THEREFORE, the REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD-Region II, by virtue of the power granted to it under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, hereby issues this Wage Order.

SECTION 1. AMOUNT OF INCREASE IN THE DAILY MINIMUM WAGE. Upon the effectivity of this Wage Order, all workers in the private sector in Region II receiving a daily wage rate of TWO

HUNDRED THIRTY ONE (P231.00) PESOS and below shall be granted an increase of TEN (P10.00) PESOS per day.

The minimum wage rates in the region shall therefore be as follows:

Industry/Sector/Province	WO No. RTWPB-II-08	P8.00 ECOLA (WO No. RTWPB-II- 09)	Additional P15 COLA (WO No. RTWPB-II- 10)	P10.00 Increase Under WO No.RTWPB- II-11	TOTAL DAILY MINIMUM WAGE RATE
Isabela					
1. Non-Agriculture	185.00	8.00	15.00	10.00	218.00
2. Agriculture	173.00	8.00	15.00	10.00	206.00
3. Retail /Service					
Employing more than	177.00	8.00	15.00	10.00	210.00
Employing not more than	150.00	8.00	15.00	10.00	183.00
Cagayan					
1. Non-Agriculture	182.00	8.00	15.00	10.00	215.00
2. Agriculture	170.00	8.00	15.00	10.00	203.00
3. Retail /Service					
Employing more than	174.00	8.00	15.00	10.00	207.00
Employing not more than	147.00	8.00	15.00	10.00	180.00
Nueva Vizcaya					
1. Non-Agriculture	178.00	8.00	15.00	10.00	211.00
2. Agriculture	166.00	8.00	15.00	10.00	199.00
3. Retail /Service					
Employing more than	170.00	8.00	15.00	10.00	203.00
Employing not more than	143.00	8.00	15.00	10.00	176.00
Quirino/Batanes					
1. Non-Agriculture	177.00	8.00	15.00	10.00	210.00
2. Agriculture	165.00	8.00	15.00	10.00	198.00
3. Retail /Service					
Employing more than	169.00	8.00	15.00	10.00	202.00
Employing not more than	142.00	8.00	15.00	10.00	175.00

SECTION 2. COVERAGE. The increase prescribed under this Order shall apply to all covered workers in the private sector in the region, regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid.

Excluded from the coverage of this Order are household or domestic helpers, persons in the personal service of another including family drivers, and workers of registered Barangay Micro-Business Enterprises (BMBEs) with Certificates of Authority.

SECTION 3. BASIS OF WAGE INCREASE. The wage increase prescribed under this Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

SECTION 4. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers in the increase in tuition fees for School Year 2006-2007 shall be considered as compliance with the wage increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2007-2008.

Private educational institutions which have not increased their tuition fees for the School Year 2006-2007 may defer compliance with the provisions of this Wage Order until the beginning of School Year 2007-2008.

In any event, all private educational institutions shall implement the wage increase prescribed herein starting School Year 2007-2008.

SECTION 5. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase for covered workers shall be borne by the principals or clients of the construction/service contractors and the contracts shall be deemed amended accordingly. If the principals or clients fail to pay the prescribed wage rates, the construction/service contractors shall be jointly and severally liable with their principals or clients.

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 not less than the prescribed minimum wage rate for eight (8) normal working hours a day, or a portion thereof for working less than eight (8) hours.

SECTION 7. WAGES OF SPECIAL GROUPS OF WORKERS. Apprentices and learners shall receive not less than seventy five (75%) of the wage increase prescribed in this Wage Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Wage Order shall be considered automatically modified in accordance with this Wage Order.

All qualified handicapped workers shall receive the herein prescribed minimum wage rates pursuant to R.A. 7277.

SECTION 8. MOBILE WORKERS. Wages of workers, who by nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

SECTION 9. BRANCH WORKERS. Wages of workers working in branches or agencies of establishments within the region shall be those applicable in the place where they are stationed.

SECTION 10. TRANSFER OF PERSONNEL. The transfer of personnel to areas with lower minimum wage rates shall in no case be a valid ground for the reduction of the higher wage rates being enjoyed by the worker prior to such transfer. However, where the worker is transferred to an area with higher wage rate, he shall be entitled to the higher wage rate.

SECTION 11. EXEMPTIONS. The following categories of establishments may be exempted from compliance with this Wage Order, upon application with and as determined by the Board in accordance with the NWPC Guidelines No. 01, Series of 1996 (NWPC Revised Guidelines on Exemption):

1. Retail/Service establishments employing not more than ten (10) workers;
2. Distressed establishments;
3. Establishments which have been adversely affected by natural calamities and
4. New Business Establishments (NBEs)

SECTION 12. EFFECT OF APPLICATION FOR EXEMPTION. Whenever an application for exemption is filed with the Board, action on any complaint for non-compliance with this Wage Order shall be deferred pending resolution of the said application.

If an application for exemption is not granted, the employees of the applicant firm shall receive the mandated wage increase under this Wage Order plus one percent (1%) interest per month retroactive to the effectivity of this Wage Order.

SECTION 13. CREDITABLE WAGE INCREASES. Wage increases granted by an employer in an organized establishment within three (3) months prior to the effectivity of the Wage Order shall be credited as compliance with the prescribed increase set forth therein, provided that an agreement to this effect has been forged between the parties or a provision in the Collective Bargaining Agreement (CBA) allowing creditability exists. In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the increase prescribed in this Wage Order.

In unorganized establishments, wage increases granted by the employer within three (3) months prior to the effectivity of the Wage Order shall be credited as compliance.

In case the increases given are less than the prescribed increase, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases and those resulting from the regularization of employees.

SECTION 14. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the wage increase prescribed in this Wage Order results in distortion in the wage structure within the establishment, it shall be corrected in accordance with the procedure under Article 124 of the Labor Code, as amended.

SECTION 15. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Wage Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) 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 16. NON-DIMINUTION OF BENEFITS. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or other benefits of any form under existing laws, decrees, issuances and executive orders/or under any contract or agreement between workers and employers.

SECTION 17. PRODUCTIVITY-BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes, such as time and motion studies, good housekeeping, quality circles, labor-management cooperation, as well as implement gain sharing programs. Accordingly, the Regional Board shall provide the necessary studies and technical assistance pursuant to RA 6971, the Productivity Incentives Act of 1990.

SECTION 18. 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 R.A. 6727, as amended by R.A. 8188.

SECTION 19. 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 20. FREEDOM TO BARGAIN. This Wage Order shall not be construed to prevent workers in particular firms or enterprises or industries from bargaining for higher wages with their respective employers.

SECTION 21. 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 Wage Order.

The filing of the appeal does not operate to stay the Wage Order unless the party appealing such Wage 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 Wage Order in the event such Wage Order is affirmed.

SECTION 22. 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, 2007 and every year thereafter in accordance with the form prescribed by the Commission.

SECTION 23. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

SECTION 24. 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 25. IMPLEMENTING RULES. The Regional Board shall prepare the implementing rules of this Wage Order subject to the approval of the Secretary of Labor and Employment.

SECTION 26. EFFECTIVITY. This Wage Order takes effect fifteen (15) days after its publication in a newspaper of general circulation in the region.

APPROVED this 18th day of July, 2006, Sta. Ana, Cagayan, Philippines.

(Sgd.) ALFREDO Y. MADRIAGA*
Workers' Representative

(Sgd.) ERNESTO J. FUECONCILLO*
Workers' Representative

(Sgd.) CECILIA LA MADRID DY
Employers' Representative

(Sgd.) CONSTANCIO S. SILVA
Employers' Representative

(Sgd.) MILAGROS A. RIMANDO
Vice-Chairperson

(Sgd.) ESPERANZA C. BAÑARES
Vice-Chairperson

(Sgd.) NATHANIEL V. LACAMBRA
Board Chairperson

* With dissenting opinion

RTWPB Region 2 Wage Increase 2006

A Dissenting Position

After a series of consultation and public hearing RTWPB Region 02 have finally came up with a wage increase in the amount of P10/day. The efforts of all the members of the WAGE Board and the participants from the workers and management sectors ultimately paid off. Although the result has been achieved the issue posed for serious consideration and assessment is whether the rate approved by the majority of the members realistically represents the rate that can have an impact to the target sector concerned. It is extremely sad to say that the basic objective of the Board was not fully and satisfactorily achieved. The approved rate was not the one expected by the workers sector. A rate which they cannot really feel when they reach out for their pockets to pay their bills and expenses. There is no need for an in depth study in order to establish the reality that the income of a worker cannot cope up with the cost of prime commodities and other requirements/needs. All that is needed is for one to visit the stores and other related places and look for themselves the price attached to every

commodity that are now on sale. Surely, you will immediately arrive at just one conclusion: That income cannot meet the needs of the workers.

The wage increase amounting to P10/day for the year 2006 is only a speck which does not have any impact except of course meeting some expenses for tricycle fares in going to and from the office. As to whether it can satisfactorily influence the possibility of meeting necessary and basic expenses is a question that can immediately be answered even without the need of a detailed survey or study. It is a dismal output but what can I do but be subjected to the decision of the majority. My submission to the rule of the majority does not in any manner, however, provide that I am freely amenable to the decision.

It is in view of the above premises that the undersigned submits his dissenting position because it cannot be dictated by his conscience approved the P10/day, wage increase. He signed the order under pain of being violently criticized by the very sector he represents.

(SGD) ERNESTO J. FUENCONCILLO

Workers' Sector Representative

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region 2
Tuguegarao City

RULES IMPLEMENTING WAGE ORDER NO. RTWPB-II-11

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 25 of Wage Order No. RTWPB-II-11, the following rules are hereby issued for the guidance and compliance by all concerned:

Rule I

DEFINITION OF TERMS

SECTION 1. DEFINITION OF TERMS. As used in this rules,

- a. "Wage Order" means Wage Order No. RTWPB-11-11 promulgated by this Regional Board pursuant to its wage fixing authority.
- b. "Commission" means the National Wages and Productivity Commission.
- c. "Regional Board" means the Regional Tripartite Wages and Productivity Board of Region II.
- d. "Region II" covers the Cities of Tuguegarao, Cauayan and Santiago and the Provinces of Cagayan, Isabela, Quirino, Nueva Vizcaya and Batanes.
- e. "Department" refers to the Department of Labor and Employment.
- f. "Minimum Wage Rates" refer to the lowest wage rate consisting of basic wage and cost of living allowance, if there is any, that an employer can pay his workers as fixed by the Regional Board.
- g. "Basic Wage" means all the remuneration or earnings paid by an employer to a worker for service rendered on normal working days and hours exclusive of living allowance and profit sharing payments, premium payment, 13th month pay or other monetary benefits.
- h. "Establishments" refer to economic units which engage 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.

- i. "Barangay Micro Business Enterprises (BMBEs) are those registered with the local government units where they are located and issued with Certificates of Authority pursuant to R.A. 9178, otherwise known as the BMBE Law.
- j. "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 an 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.
- k. "Non-Agriculture Establishment" refers to establishments or industries other than agriculture and retail or service regardless of employment size.
- l. "Retail Establishment" is one principally engaged in the sale of goods to end users for personal use or household use. A retail establishment that regularly engages in wholesale activities loses its retail character.
- m. "Service Establishment" is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such.
- n. "New Business Enterprise" refers to establishments including non-profit institutions, established within two (2) years from effectivity of this Wage Order based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and Mayor's Office;
- o. "Distressed Establishments" refer to establishments which meet the criteria enumerated in Section 3A of the NWPC New Rules on Exemption (NWPC Guidelines No. 1, Series of 1996).
- p. "Establishments Adversely Affected by Natural Calamities" refer to establishments which incurred losses due to earthquake, typhoons, fire and similar occurrences.
- q. "Establishments Regularly Employing Not More Than Ten (10) Workers" refer to establishments employing not more than ten (10) workers regardless of status except the owner/s, for at least six (6) months in any calendar year.
- r. "Capital" refers to paid up capital at the end of the last full accounting period, in the case of a corporation and total invested capital at the beginning of the period under review in the case of a partnership or single proprietorship.
- s. "Wage Distortion" means a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinction embodied in such wage structure based on skills, length of service or other logical bases of differentiation.
- t. "Mobile Workers" are those employees, who by nature of their work, have to travel or move from one place to another.
- u. "Branch Workers" are those employees working in branches or agencies of

establishments.

- v. "Productivity" refers to the relation of output to input in physical and/or real monetary terms.

Rule II

THE NEW MINIMUM WAGE RATES

Section 1. AMOUNT. Effective August 9, 2006, all workers in the private sector in Region II receiving a daily wage rate of TWO HUNDRED THIRTY ONE (P231.00) PESOS and below shall be granted an increase in the amount of TEN (P10.00) PESOS per day.

The minimum wage rates in the region shall be as follows:

Industry/Sector/Province	WO No. RTWPB-II-08	P8.00 ECOLA (WO No. RTWPB-II- 09)	Additional P15 COLA (WO No. RTWPB-II- 10)	P10.00 Increase Under WO No.RTWPB- II-11	TOTAL DAILY MINIMUM WAGE RATE
Isabela					
1. Non-Agriculture	185.00	8.00	15.00	10.00	218.00
2. Agriculture	173.00	8.00	15.00	10.00	206.00
3. Retail /Service					
Employing more than	177.00	8.00	15.00	10.00	210.00
Employing not more than	150.00	8.00	15.00	10.00	183.00
Cagayan					
1. Non-Agriculture	182.00	8.00	15.00	10.00	215.00
2. Agriculture	170.00	8.00	15.00	10.00	203.00
3. Retail /Service					
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Employing not more than	143.00	8.00	15.00	10.00	176.00
Quirino/Batanes					
1. Non-Agriculture	177.00	8.00	15.00	10.00	210.00
2. Agriculture	165.00	8.00	15.00	10.00	198.00

3. Retail /Service					
Employing more than	169.00	8.00	15.00	10.00	202.00
Employing not more than	142.00	8.00	15.00	10.00	175.00

Section 2. COVERAGE. The wage increase prescribed under this Wage Order shall apply to all covered workers in the private sector in the region, regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid.

Excluded from the coverage of this Wage Order are household or domestic helpers, persons employed in the personal service of another, including family drivers, and workers of registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority.

Section 3. BASIS OF MINIMUM WAGE RATES. The daily minimum wage rates prescribed under this Wage Order shall be for the normal working hours which shall not exceed eight (8) hours work a day. For work less than the normal working hours, the following formula shall apply:

$$\text{Amount of Wage Increase} = \frac{\text{No. of Hours Worked} \times \text{P10.00}}{\text{Normal Working Hours}}$$

Section 4. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers in the increase in tuition fees for School Year 2006-2007 shall be considered as compliance with the wage increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2007-2008.

Private educational institutions which have not increased their tuition fees for the School Year 2006-2007 may defer compliance with the provisions of this Wage Order until the beginning of School Year 2007-2008.

In any event, all private educational institutions shall implement the wage increase prescribed herein starting School Year 2007-2008.

Section 5. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase for covered workers shall be borne by the principals or clients of the construction/service contractors and the contracts shall be deemed amended accordingly. If the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with the principal or client.

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 wage increase per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

The adjusted minimum wage rates for workers paid by results shall be computed in accordance with the following steps:

1. Amount of increase in AMW*
----- x 100 = Percent increase
Previous AMW
2. Existing rate/ piece X Percent increase = Increase in rate/piece
3. Existing rate/ Piece + Increase in rate/piece = Adjusted rate/piece

*Where AMW is the applicable minimum wage rate

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 rules and regulations.

Section 7. WAGE OF SPECIAL GROUP OF WORKERS. Apprentices and learners shall receive not less than seventy-five (75%) of the wage increase prescribed in this Wage Order. All qualified handicapped workers shall receive the full amount of wage increase prescribed herein pursuant to R.A. 7277.

Section 8. MOBILE WORKERS. The wage increase 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.

Section 9. BRANCH WORKERS. The wage increase of workers working in branches or agencies of establishments within the region shall be those applicable in the place where they are stationed.

Section 10. TRANSFER OF PERSONNEL. The transfer of personnel to areas with lower wage rates shall in no case be a valid ground for the reduction of the higher wage being enjoyed by the worker prior to such transfer. However, where the worker is transferred to an area with higher wage, he shall be entitled to the higher wage rate.

Section 11. APPEAL TO THE COMMISSION. Any party aggrieved by the Wage Order may file a verified appeal to the Commission through the Regional Board within ten (10) calendar days from the publication of the Wage Order. The Commission shall decide the appeal within sixty (60) days from the date of filing.

The appeal, with proof of notice to concerned 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 of the appeal. An appeal may be filed on the following grounds:

- a. Non-conformity with the prescribed guidelines and/or procedures;
- b. Prima facie evidence of grave abuse of discretion on the part of the Board; or
- c. Questions of law.

Section 12. EFFECT OF THE APPEAL. The filing of the appeal does not operate to stay the Wage Order unless the appellant shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding wage increase to employees affected by the Wage Order, in the event the Wage Order is affirmed.

Rule III

EXEMPTIONS

Section 1. EXEMPTIONS. The following establishments may be exempted from complying with the Wage Order upon application with and as determined by the Regional Board in accordance with NWPC Guidelines 01, series of 1996 on Rules of Exemption:

- a) Retail/Service establishments regularly employing not more than 10 workers;
- b) Distressed establishments;
- c) Establishments adversely affected by natural calamities; and,
- d) New business enterprises (NBEs).

Section 2. PERIOD FOR FILING APPLICATION FOR EXEMPTION. All applications for exemption from compliance with this Wage Order shall be filed with the Regional Board within seventy five (75) days from the date of publication of the Rules Implementing the Wage Order. An application in three (3) typewritten copies may be filed 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. The application shall be under oath and accompanied by complete supporting documents as specified in the Rules.

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

Section 3. EXTENT AND DURATION OF EXEMPTION. A full exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3 of NWPC Guidelines No. 01, series of 1996. However, a partial exemption of 50% with respect to the amount or period of exemption may be granted in the case of distressed establishments.

Section 4. CRITERIA FOR EXEMPTIONS. The following criteria shall be used to determine whether or not the applicant-establishment is qualified for exemption:

A. Retail/service establishments regularly employing not more than 10 workers/employees

Exemption may be granted to a retail/service establishment when:

1. It is engaged in the retail sale of goods and/or services to end users for personal or household use; and,
2. It is regularly employing not more than ten (10) workers regardless of status, except the owner/s, for at least six (6) months in any calendar year.

B. Distressed Establishments

1. For Stock Corporation/Cooperatives

- 1.a. When deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Wage Order amounts to 20% or more of the paid-up capital for the same period; or
- 1.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 Wage Order.

2. For Single Proprietorships/Partnerships

- 2.a. Single proprietorships/partnerships operating for at least two (2) years may be granted exemption:
 - 2.a.1. The net accumulated losses for the last two (2) full accounting periods and interim period, if any, preceding the effectivity of the Wage Order amount to 20% or more of the total invested capital at the beginning of the period under review, or,
 - 2.a.2. An establishment registers capital deficiency, i.e., negative net worth as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Wage Order.
- 2.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 Wage Order amount to 20% or more of the total invested capital at the beginning of the period under review.

3. For Non-Stock Non-Profit Organizations

- 3.a. Non-stock non-profit organizations operating for at least two (2) years may be granted exemption:
 - 3.a.1 When the net accumulated losses for the last two (2) full accounting periods and interim period , if any, immediately preceding the effectivity of the Wage Order amount to 20% or more of the fund balance/members' contributions at the beginning of the period under review.
 - 3.a.2. When an establishment registered capital deficiency, i.e., negative fund balance/members' contribution as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Wage Order.
- 3.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 Wage Order amount to 20% or more of the fund balance/members' contribution at the beginning of the period under review.

4. For banks and quasi – banks

4.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 (BSP) that it is under receivership or liquidation as provided in Section 30 of RA 7653, otherwise known as the New Central Bank Act.

4.b. Under controllership/conservatorship

A bank or quasi-bank under controllership/conservatorship may apply for exemption as distressed establishment under Section 3A of the New Rules for Exemption.

C. Establishments Adversely Affected by Natural Calamities

1. The establishment must be located in an area declared by a competent authority as under a state of calamity.
2. The calamities, such as earthquakes, typhoons, fire, flood and similar occurrences, must have occurred within six months (6) prior to the effectivity of the Wage Order.
3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as of the full accounting period in the case of corporations and cooperatives; total invested capital in the case of partnership and single proprietorship; and, fund balance/members' contribution in the case of non-stock non-profit organizations.

Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.

4. Where necessary, the Board or its duly authorized representative shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

D. New Business Enterprises (NBEs).

Exemption may be granted to New Business Enterprises (NBEs) established outside Export Processing Zones (EPZs) within two (2) years from the effectivity of the Wage 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 5. DOCUMENTS REQUIRED. The following supporting documents shall be submitted together with the application:

FOR ALL CATEGORIES OF EXEMPTION:

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

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

A. For retail/service establishments employing not more than ten (10) workers:

1. Affidavit from employer stating the following:
 - a. It is a retail/service establishment.
 - b. It is regularly employing not more than ten (10) workers for at least six (6) months in any calendar year.
2. Business permit for the current year from the appropriate government agency.

B. For Distressed Establishments

1. For corporations, cooperatives, single proprietorship, partnership, 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 Wage 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 Central ng Pilipinas (BSP) that it is under receivership or liquidation.

C. For Establishment Adversely Affected by Natural Calamities.

1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
 - a. Date and type of calamity;
 - b. Amount of losses/damages suffered as a result of the calamity;

- c. List of properties damaged/lost together with estimated valuation;
 - d. For properties that are not insured, a statement that the same are not covered by insurance.
2. Copies of insurance policy contracts covering the properties damaged, if any.
 3. Adjuster's report for insured properties.
 4. Audited financial statements for the last full accounting period preceding the effectivity of the Wage Order stamped "received" by the appropriate government agency.

D. For New Business Enterprises (NBEs)

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 agency

Section 6. EFFECT OF APPLICATION FOR EXEMPTION. Whenever an application for exemption has been duly filed with the Regional Board, action on any complaint for non-compliance with the Wage Order shall be deferred pending its resolution.

In the event that the application for exemption is not approved, the employees of the applicant firm shall receive the appropriate wage increase due them as provided for in the Wage Order together with the payment of interest amounting to one percent (1%) per month retroactive to the date of effectivity of the Wage Order.

Rule IV

SPECIAL PROVISIONS

Section 1. CREDITING. CREDITABLE WAGE INCREASES. Wage increases granted by an employer in an organized establishment within three (3) months prior to the effectivity of the Order shall be credited as compliance with the prescribed increase set forth therein, provided that an agreement to this effect has been forged between the parties or a provision in the Collective Bargaining Agreement (CBA) allowing creditability exists. In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the increase prescribed in this Order.

In unorganized establishments, wage increases granted by the employer within three (3) months prior to the effectivity of the Order shall be credited as compliance.

In case the increases given are less than the prescribed increase, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases and those resulting from the regularization of employees.

Section 2. EFFECTS ON EXISTING WAGE STRUCTURE. Should any dispute arise as a result of the wage distortion, the employer and the union shall negotiate to correct the distortions through the grievance procedure under their collective bargaining agreement (CBA) 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 is referred to 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 there from 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 shall 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 wage distortion shall not in any way delay the applicability of the wage increase prescribed in the Wage Order.

Section 3. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with the Wage Order shall be filed with the Regional Office of the Department and shall be subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 4. CONDUCT OF INSPECTION BY THE DEPARTMENT. The Department shall conduct inspections of establishments, as often as necessary, to determine whether the workers are paid the prescribed wage rates and other benefits granted by law or any Wage Order. In the conduct of inspection in unionized companies, Department inspectors shall always be accompanied by the president or other responsible officer of the recognized bargaining agent or of any interested unions existing in the bargaining unit. In the case of non-unionized establishments, a worker representing the workers in the said company will accompany the inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not concur with the findings of the labor inspector.

Section 5. NON-DIMINUTION OF BENEFITS. Nothing in the Wage Order and in this Rules 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 the employers.

Section 6. PRODUCTIVITY-BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes, such as time and motion studies, good housekeeping, quality circles, labor-management

cooperation, as well as implement gain sharing programs. Accordingly, the Regional Board shall provide the necessary studies and technical assistance pursuant to RA 6971, the Productivity Incentives Act of 1990.

Section 7. 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 minimum wage rates:

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

$$\begin{array}{l} \text{Equivalent} \\ \text{Monthly} \\ \text{Rate (EMR)} \end{array} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 392.80 \text{ days}}{12}$$

Where 392.80 days :

300	days	Ordinary working days
20	days	10 regular holidays x 200%
2.6	days	1 regular holiday falling on last Sunday of August x 200% + (30% of 200%)
66.30	days	51 rest days x 130%
3.90	days	3 special days x 130%
<hr style="width: 10%; margin-left: 0;"/>		
392.80	days	Total equivalent number of days

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

$$\begin{array}{l} \text{(EMR)} \end{array} = \frac{\text{ADR} \times 365 \text{ days}}{12}$$

Where 365 days :

300	days	Ordinary working days
51	days	Rest days
11	days	Regular holidays
3	days	Special days

 365 days Total equivalent number of days

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

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

Where 314 days :

300 days Ordinary working days
 11 days Regular holidays
 3 days 3 Special days (if considered paid; if actually worked, this is equivalent to 3.9 days)

 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:

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

Where 262 days :

248 days Ordinary working days
 11 days Regular holidays
 3 days 3 Special days (if considered paid; if actually worked, this is equivalent to 3.9 days)

 262 days Total equivalent number of days

Note: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being 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 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 8. PENAL PROVISION. Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase in the Wage Order shall be punished by a fine of not less than Twenty Five Thousand Pesos (P25,000.00) nor more than One Hundred Thousand Pesos (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. Provided, that any person convicted under the Wage Order shall not be entitled to the benefits provided for under the Probation Law.

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

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 9. 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 10. FREEDOM TO BARGAIN. The Wage 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 11. REPORTING REQUIREMENT. Any persons, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Regional Board not later than January 31, 2007 and every year thereafter in accordance with the form prescribed by the Commission.

Section 12. REPEALING CLAUSE. All orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

Section 13. SEPARABILITY CLAUSE. If any provision or part of the Wage Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Wage Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 14. EFFECTIVITY OF THE RULES. This Rules Implementing Wage Order No. RTWPB-II-11 shall take effect on August 9, 2006.

Done in Tuguegarao City this 3rd day of August 2006.

(Sgd.) **ALFREDO Y. MADRIAGA***
Workers' Representative

(Sgd.) **ERNESTO J. FUECONCILLO***
Workers' Representative

(Sgd.) **CECILIA LA MADRID-DY**
Employers' Representative

(Sgd.) **CONSTANCIO S. SILVA**
Employers' Representative

(Sgd.) **MILAGROS A. RIMANDO**
Vice Chairperson

(Sgd.) **MA. ESPERANZA C. BANARES**
Vice Chairperson

(Sgd.) **NATHANIEL V. LACAMBRA**
Board Chairperson

Approved this 25th day of August, 2006.

(Sgd.) **ARTURO D. BRION**
Secretary
Department of Labor and Employment

* With dissenting opinion

RTWPB Region 2 Wage Increase 2006
A Dissenting Position

After a series of consultation and public hearing RTWPB Region 02 have finally came up with a wage increase in the amount of P10/day. The efforts of all the members of the WAGE Board and the participants from the workers and management sectors ultimately paid off. Although the result has been achieved the issue posed for serious consideration and assessment is whether the rate approved by the majority of the members realistically represents the rate that can have an impact to the target sector concerned. It is extremely sad to say that the basic objective of the Board was not fully and satisfactorily achieved. The approved rate was not the one expected by the workers sector. A rate which they cannot really feel when they reach out for their pockets to pay their bills and expenses. There is no need for an in depth study in order to establish the reality that the income of a worker cannot cope up with the cost of prime commodities and other requirements/needs. All that is needed is for one to visit the stores and other related places and look for themselves the price attached to every commodity that are now on sale. Surely, you will immediately arrive at just one conclusion: That income cannot meet the needs of the workers.

The wage increase amounting to P10/day for the year 2006 is only a speck which does not have any impact except of course meeting some expenses for tricycle fares in going to and from the office. As to whether it can satisfactorily influence the possibility of meeting necessary and basic expenses is a question that can immediately be answered even without the need of a detailed survey or

study. It is a dismal output but what can I do but be subjected to the decision of the majority. My submission to the rule of the majority does not in any manner, however, provide that I am freely amenable to the decision.

It is in view of the above premises that the undersigned submits his dissenting position because it cannot by the dictate of his conscience approved the P10/day, wage increase. He signed the order under pain of being violently criticized by the very sector he represents.

(SGD) ERNESTO J. FUENCONCILLO

Workers' Sector Representative