



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

WAGE ORDER NO. RTWPB-II-13

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 Regional Board issued Wage Order No. RTWPB-II-12 on October 10, 2007 increasing the minimum wage rates of workers in the private sector by Five Pesos (Php 5.00) per day effective November 25, 2007;

WHEREAS, Rule IV, Section 3 of the Amended Rules of Procedure on Minimum Wage Fixing provides that any wage order issued by the Board may not be disturbed for a period of twelve (12) months from its effectivity and no petition shall be entertained within the said period except when there exists a supervening conditions as determined by the Board and confirmed by the Commission.

WHEREAS, in its study and analysis of the socio-economic factors in the region such as consumer price index (CPI), inflation rate (IR) and the erosion of the purchasing power of the peso (PPP), among others, the Board declared the existence of a supervening condition on April 21, 2008 and confirmed by the National Wages and Productivity Commission on April 24, 2008;

WHEREAS, the results of the Board's evaluation, public consultations with workers and employers sectors on April 24 and May 8, 2008 in Tuguegarao City, Cagayan Province and Cauayan City, Isabela Province, respectively, and the public hearing held on May 20, 2008 in Tuguegarao City, necessitate an adjustment of the minimum wage;

WHEREAS, the Board is only mandated to fix the minimum wage, however, with the existence of a supervening condition, employers of workers with wages above the minimum wage may make an adjustment and/or grant non-wage benefits mutually acceptable to both parties;

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, by virtue of the power and authority vested under Republic Act No. 6727, the REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD-Region II hereby issues this Wage Order.

SECTION 1. AMOUNT OF INCREASE IN THE DAILY MINIMUM WAGE. Upon the effectivity of this Wage Order, all minimum wage workers and employees in the private sector in Region II shall be granted an increase of twelve pesos (P12.00) per day plus the

integration of the eight pesos (P8.00) per day cost of living allowance (COLA) under Wage Order No. RTWPB-II-09.

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

Industry/Sector/province	BASIC WAGE (+P12.00+Integration of P8.00 under Wage Order No. RTWPB- II- 09)	COLA under Wage Order No. RTWPB-II- 10	TOTAL Daily Minimum Wage Rates
Isabela			
1. Non- Agriculture	220.00	15.00	235.00
2. Agriculture	208.00	15.00	223.00
3. Retail/Service			
Employing more than 10	212.00	15.00	227.00
Employing not more than 10	185.00	15.00	200.00
Cagayan			
1. Non- Agriculture	217.00	15.00	232.00
2. Agriculture	205.00	15.00	220.00
3. Retail/Service			
Employing more than 10	209.00	15.00	224.00
Employing not more than 10	182.00	15.00	197.00
Nueva Vizcaya			
1. Non- Agriculture	213.00	15.00	228.00
2. Agriculture	201.00	15.00	216.00
3. Retail/Service			
Employing more than 10	205.00	15.00	220.00
Employing not more than 10	178.00	15.00	193.00
Quirino/Batanes			
1. Non- Agriculture	212.00	15.00	227.00
2. Agriculture	200.00	15.00	215.00
3. Retail/Service			
Employing more than 10	204.00	15.00	219.00
Employing not more than 10	177.00	15.00	192.00

SECTION 2. COVERAGE. The increase prescribed under this Wage Order shall apply to all minimum wage workers and employees 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 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 Wage 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 2008-2009 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 2009-2010.

Private educational institutions which have not increased their tuition fees for the School Year 2008-2009 may defer compliance with the provisions of this Wage Order until the beginning of School Year 2009-2010.

In any event, all private educational institutions shall implement the wage increase prescribed herein starting School Year 2009-2010.

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 principal or clients of the construction/service contractors and the contract 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 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 full amount of wage increase prescribed herein 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 Regional Board in accordance with the NWPC Guidelines No. 02, Series of 2007 (NWPC Amended Rules on Exemption):

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

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 this Wage Order shall be considered as full or partial compliance, as the case may be.

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 in this Wage 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, 2009 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 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 22nd day of May, 2008 in Tuguegarao City, Cagayan, Philippines.

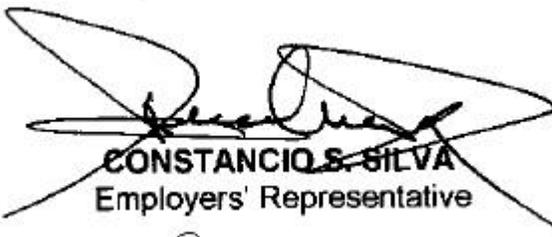

JOSE D. BALAGAN
Employees' Representative

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ERNESTO J. FUECONCILLO
Employees' Representative



CECILIA LA MADRID
Employers' Representative



CONSTANCIO S. SILVA
Employers' Representative



MILAGROS A. RIMANDO
Vice Chairperson



MA. ESPERANZA C. BAÑARES
Vice Chairperson



GRACE Y. URSUA
Board Chairperson



Republic of the Philippines
Department Of Labor and Employment
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REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region II
Tuguegarao City

RULES IMPLEMENTING WAGE ORDER NO. RTWPB-II-13

Pursuant to Section 6, Rule IV of the Amended Rules of Procedure on Minimum Wage Fixing and Section 25 of Wage Order No. RTWPB-II-13, 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-II-13 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, 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”** refers to an entity principally engaged in the sale of goods to end users for personal or household use. A retail establishment that regularly engages in wholesale activities loses its retail character.
- m. **“Service Establishment”** refers to an entity principally engaged in the sale of services 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 Amended Rules on Exemption (NWPC Guidelines No. 02, Series of 2007).
- 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 corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships.
- s. **“Wage Distortion”** refers to 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 June 15, 2008, all minimum wage workers and employees in the private sector in Region II shall be granted an increase of twelve pesos (P12.00) per day plus the integration of the eight pesos (P8.00) per day cost of living allowance (COLA) under Wage Order No. RTWPB-II-09.

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

Industry/Sector/province	Basic Wage Under Wage Order No. RTWPB-II-13	COLA Under Wage Order No. RTWPB-II- 10	TOTAL Daily Minimum Wage Rates
Isabela			
1. Non- Agriculture	220.00	15.00	235.00
2. Agriculture	208.00	15.00	223.00
3. Retail/Service			
Employing more than 10	212.00	15.00	227.00
Employing not more than 10	185.00	15.00	200.00
Cagayan			
1. Non- Agriculture	217.00	15.00	232.00
2. Agriculture	205.00	15.00	220.00
3. Retail/Service			
Employing more than 10	209.00	15.00	224.00
Employing not more than 10	182.00	15.00	197.00
Nueva Vizcaya			
1. Non- Agriculture	213.00	15.00	228.00
2. Agriculture	201.00	15.00	216.00
3. Retail/Service			
Employing more than 10	205.00	15.00	220.00
Employing not more than 10	178.00	15.00	193.00
Quirino/Batanes			
1. Non- Agriculture	212.00	15.00	227.00
2. Agriculture	200.00	15.00	215.00
3. Retail/Service			
Employing more than 10	204.00	15.00	219.00
Employing not more than 10	177.00	15.00	192.00

Section 2. COVERAGE. The wage increase prescribed under this Wage Order shall apply to all minimum wage 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 or a proportion thereof for work of less than the 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 2008-2009 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 2009-2010.

Private educational institutions which have not increased their tuition fees for the School Year 2008-2009 may defer compliance with the provisions of this Wage Order until the beginning of School Year 2009-2010.

In any event, all private educational institutions shall implement the wage increase prescribed herein starting School Year 2009-2010.

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 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 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 therein.

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 the 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 02, series of 2007, on Amended Rules on Exemption:

1. Distressed establishments;
2. New business enterprises (NBEs);
3. Retail/Service establishments regularly employing not more than 10 workers;
and
4. Establishments adversely affected by natural calamities.

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. 02, series of 2007. However, a partial exemption of 50% with respect to the amount or period of exemption may be granted in the case of distressed establishments. On the other hand, a conditional exemption of one (1) year from the effectivity of this Wage Order may be granted only in the case of distressed establishments under Section 4 A of this Wage Order.

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

A. Distressed Establishments

1. For Stock Corporation/Cooperatives

a. Full Exemption

- a.1. When the deficit as of the last full accounting period immediately preceding the effectivity of the Wage Order amounts to 20% or more of the paid-up capital for the same period; or
- a.2. When an establishment registers capital deficiency, i.e., negative stockholders' equity as of the last full accounting period immediately preceding the effectivity of the Wage Order.

b. Partial Exemption

- b.1. When the deficit as of the last full accounting period immediately preceding the effectivity of the Wage Order amounts to at least 10% but less than 20% of the paid-up capital for the same period.

c. Conditional Exemption

- c.1. When the actual net loss of the interim period immediately preceding the effectivity of the Wage Order amounts to at least 25% of total assets.

2. For Single Proprietorships/Partnerships

a. Full Exemption

- a.1. When the accumulated net losses for the last two (2) full accounting periods 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; or,
- a.2. When an establishment registers capital deficiency, i.e., negative net worth, as of the last full accounting period immediately preceding the effectivity of the Wage Order.

b. Partial Exemption

- b.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Wage Order amount to at least 10% but less than 20% of the total invested capital at the beginning of the period under review.
- c. Conditional Exemption
 - c.1. When the actual net loss as of the interim period immediately preceding the effectivity of the Wage Order amounts to at least 25% of total assets.

3. For Non-Stock, Non-Profit Organizations

- a. Full Exemption:
 - a.1. When the accumulated net losses for the last two (2) full accounting periods 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; or
 - a.2. When an establishment registers 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.
- b. Partial Exemption:
 - b.1. When the accumulated net losses for the last two (2) accounting periods immediately preceding the effectivity of the Wage Order amount to at least 10% but not more than 20% of the fund balance/members' contribution at the beginning of the period under review.
- c. Conditional Exemption:
 - c.1. When the actual net loss of the interim period immediately preceding the effectivity of the Wage Order amounts to at least 25% of total assets.

4. For banks and quasi – banks

- a. Under receivership/liquidation

Exemption may be granted to a bank or quasi – bank under receivership or liquidation when there is a certification from the Bangko Sentral ng Pilipinas (BSP) that it is under receivership or liquidation as provided in Section 30 of RA 7653, otherwise known as the New Central Bank Act.

- b. Under controllership/conservatorship

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

5. Establishments Under Corporate Rehabilitation

Exemption may be granted to corporations, partnerships and associations under corporate rehabilitation when there is an order from a court of competent jurisdiction that it is under rehabilitation as provided in Section 6 Rule IV of the interim Rules of Procedure on Corporate Rehabilitation (2000).

B. 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.

C. 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.

D. 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 natural calamities, such as earthquakes, typhoons, fire, floods and similar occurrences, must have occurred within six (6) months 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 partnerships and single proprietorships 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.

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 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. Full or Partial Exemption
 - a.1. 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. Conditional Exemption
 - b.1. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last full accounting period and interim quarterly financial statement/s for the period immediately preceding the effectivity of the Wage Order.
 - b.2. To confirm the grant of the conditional exemption, audited financial statements for the last full accounting period, stamped received by the appropriate government agency, to be submitted within 30 days from the lapse of the one-year exemption period.
2. For banks and quasi-banks:

Certification from the Bangko Sentral ng Pilipinas that it is under receivership/liquidation.
3. For Establishments Under Corporate Rehabilitation

Order from a court of competent jurisdiction that the establishment is under rehabilitation.

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 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 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 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 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. ADOPTION OF PRODUCTIVITY IMPROVEMENT PROGRAMS. Establishments granted exemption are required to adopt productivity improvement initiatives or schemes to improve business viability. The Regional Board shall provide technical assistance in the development of a productivity improvement program in the establishment.

Section 8. 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:

Applicable Daily Rate (ADR) x 392.5/ 12 months = EEMR

Where 392.5 days/year	=	299	Ordinary working days
		22	Regular holidays
		67.6	52 rest days x 130%
		<u>3.9</u>	3 special days x 130%
		392.5	Total no. of days/year

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

ADR x 313/ 12 months = EEMR

Where 313 days/year	=	299	Ordinary working days
		11	Regular holidays
		<u>3</u>	Special days
		313	Total no. of days/year

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

ADR x 261/ 12 months = EEMR

Where 261 days/year	=	247	Ordinary working days
		11	Regular holidays
		<u>3</u>	Special holidays
		261	Total no. of days/year

Meanwhile, as to factor 365 days/year, although there is no effect as to the payment in the monthly salary of employees as they are paid all days of the year, its breakdown will be as follows:

ADR x 365/ 12 months = EEMR

Where 365 days/year	=	299	Ordinary working days
		52	Sundays/ rest days
		11	Regular holidays
		<u>3</u>	Special days
		365	Total no. of days/year

Section 9. 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 10. 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 11. 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 12. REPORTING REQUIREMENT. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of its labor component to the Regional Board not later than January 31, 2009 and every year thereafter in accordance with the form prescribed by the Commission.

Section 13. 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 14. 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.

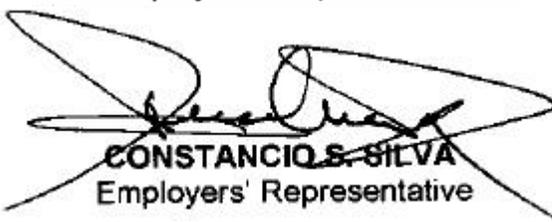
Section 15. EFFECTIVITY OF THE RULES. This Rules Implementing Wage Order No. RTWPB-II-13 shall take effect on **June 15, 2008** .

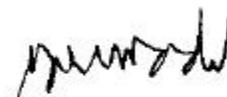
Done in Sta. Ana, Cagayan this 10th day of June, 2008.


JOSE D. BALAGAN
Employees' Representative


ERNESTO J. FUECONCILLO
Employees' Representative


CECILIA LA MADRID DY
Employees' Representative


CONSTANCIO S. SILVA
Employers' Representative


MILAGROS A. RIMANDO
Vice Chairperson


MA. ESPERANZA C. BAÑARES
Vice Chairperson


GRACE Y. URSUA
Board Chairperson

Approved this 20th day of June, 2008.


MARIANITO D. ROQUE
Secretary
Department of Labor and Employment