

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

WAGE ORDER NO. RO2-05
INCREASING THE MINIMUM WAGE RATES OF WORKERS
IN THE PRIVATE SECTOR IN REGION 2

WHEREAS, the Regional Tripartite Wages and Productivity Board (RTWPB) is mandated by law to rationalize wage fixing in the region taking into account the prevailing economic conditions affecting the cost of living of wage earners, the viability of economic enterprises and the interests of both labor and management with the end in view of ensuring the health, efficiency and well-being of workers as well as the continued and sustainable viability of business and industry;

WHEREAS, the Regional Board received two (2) petitions for wage increase and two (2) position papers in support thereof from the labor sector seeking wage increases ranging from fifty pesos (P50.00) to eighty (P80.00) per day;

WHEREAS, the Regional Board likewise received eight (8) position papers from the management sector opposing the amounts of wage increase sought by the labor sector and instead offering wage increases ranging from ten pesos (P10.00) to fifteen pesos (P15.00) per day;

WHEREAS, to give due course to the petitions for wage increase, the Regional Board conducted separate public hearings/consultations on December 1, 1997 in Santiago City and Bayombong, Nueva Vizcaya, respectively, and on December 2, 1997 in Tuguegarao, Cagayan .

WHEREAS, during the public hearings/consultations, both labor and management were given the opportunity to present and support their respective positions;

WHEREAS, in order to have a broader, more balanced and rationalized discussion of the issues raised in the petitions and position papers of labor and management, respectively, significant and relevant statistical data on consumer price index (CPI), nominal and real wages, inflation rates (IRs) and the corresponding analyses thereof were presented by the National Economic Development Authority (NEDA), the Department of Trade and Industry (DTI), the Department of Labor and Employment (DOLE) and the RTWPB;

WHEREAS, in determining the appropriate wage increase, the Board considered the following economic factors:

- a) The demand for living wages;
- b) The wage adjustment vis-à-vis the consumer price index;
- c) The cost of living and changes or increases therein;
- d) The needs of workers and their families;
- e) The need to induce industries to invest in the countryside;
- f) Improvement in standards of living;
- g) The prevailing wage levels;
- h) Fair return of the capital invested and capacity to pay of employers;
- i) Effects on employment generation and family income; and
- j) The equitable distribution of income and wealth along the imperatives of economic and social development.

WHEREAS, the Regional Board has noted the general consensus of both labor and management expressed during the public hearings/consultations on the need to increase the wages of workers adequate to help them cope with the rising cost of living without, however, hampering the growth of business and industry;

WHEREAS, in view of supervening events such as the depreciation of the peso vis-à-vis the US dollar, the increase in the price of oil and other petroleum products, increase in transportation fares, as well as the surging cost of basic services and prime commodities, the Regional Board deems it imperative to provide wage earners and their families immediate economic relief;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the RTWPB of Region 2 hereby issues this Wage Order with the following provisions:

Section 1. Coverage. The wage increase prescribed under this Order shall apply to all covered private sector employees/workers in Region 2 regardless of position, designation or status.

Section 2. Amount and manner of increase. On January 1, 1998 all covered employees/workers in the private sector in Region 2 except those already receiving TWO HUNDRED TWENTY PESOS (P220.00) or more shall receive a FIFTEEN PESO (P15.00) increase in their daily wage to be given on a staggered basis, as follows:

- a) TEN PESO (P10.00) daily wage increase on January 1, 1998; and
- b) FIVE PESO (P5.00) daily wage increase on May 1, 1998.

Section 3. Basis of the minimum wage rates. The basis of the minimum wage rates prescribed under this Order shall be for the normal working hours which shall not exceed eight (8) hours per day.

Section 4. Exemptions. Exemptions under this Order shall be of two (2) kinds:

1. Automatic exemption. Automatically exempted from provisions of this Order are household or domestic helpers and persons in the personal service of another, including family drivers;
2. Exemption upon application. Upon due application with and as determined by the Regional Board in accordance with existing rules and guidelines, the following may be exempted:
 - 2.1. Retail/Service establishments regularly employing not more than seven (7) workers;
 - 2.2. Distressed establishments;
 - ~~2.2-2.3.~~ Establishments which have been adversely affected by calamities; and
 - 2.4. New Business enterprises (NBEs)

Section 5. Duration and extent of exemption. Qualified establishments shall be granted full exemption of one (1) year from the effectivity of this Order except for distressed establishments which may be granted partial exemption in accordance with existing rules and guidelines.

Section 6. Effect of application for exemption duly filed. An application for exemption duly filed shall have the effect of deferring any action on any complaint for non-compliance with the Order until resolution of the application by the Regional Board.

Section 7. Effect of disapproved application for exemption. In case the application for exemption is denied, the employees/workers of the applicant-establishment shall receive the appropriate adjustment in compensation due them under this Order plus one (1) percent interest per month retroactive to the effectivity of this Order.

Section 8. Private educational institutions. In the case of private educational institutions, the effectivity of the wage increase prescribed under this Order shall be on June 1, 1998. Provided, however, that the employees' share in the increase of tuition fees, equivalent to or higher than the increase prescribed under this Order shall be credited as compliance with the Wage Order. Provided, finally, that where the employees' share in the increase in the tuition fee is lower than the wage increase prescribed hereunder, the employer shall pay the difference.

Section 9. Workers paid by result. All workers paid by result, "takay", "pakyaw", or task basis shall receive the prescribed wage increase for the normal working hours, which shall not exceed eight (8) hours a day, or a proportion thereof for working less than eight (8) hours.

Section 10. Services contractors. In the case of construction projects, security, janitorial and similar services, the prescribed increases in minimum wage rates for employees/workers under this category shall be paid by the principal or client of the contractors and the contract shall be deemed amended accordingly.

In the event, however, that the principal or client fails to pay the prescribed wage rates, the contractors shall be jointly and severally liable with the principal or client.

Section 11. Special group of workers. Learners, apprentices and handicapped workers shall, in no case, be paid wages less than seventy five percent (75%) of the minimum wage rates prescribed under this Order.

All valid learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically amended in so far as their wage clauses are concerned.

Section 12. Mobile and branch workers. The minimum wage rates of workers employed in branches or agencies of establishments shall be those applicable in the place where they are stationed. In the case of mobile workers, the minimum wage rates shall be those applicable in the domicile or head office of the employer.

Section 13. 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 higher wage rates being enjoyed by the worker prior to such transfer. However, where the worker is transferred to an area with higher minimum wage rates, he shall be entitled to the higher minimum wage rates.

Section 14. Crediting. If expressly provided for and agreed upon in the collective bargaining agreements (CBAs), wage increases granted by an employer within three (3) months prior to the effectivity of this Order shall be credited as compliance with the wage increase prescribed herein. Where the increase is less than that prescribed under this Order, the employer shall pay the difference.

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

Section 15. Wage distortion. Wage distortion arising from disparities/differences in salary rates shall be resolved by the employers and workers through negotiation, employers' initiative, grievance procedure, voluntary arbitration or compulsory arbitration through the National Conciliation and Mediation Board (NCMB) or the National Labor Relations Commission (NLRC), whichever is applicable.

Section 16. Reportorial requirements. All employers, without qualification, shall submit a duly prescribed report on their compliance with this Order on or before January 31, 1999 and every year thereafter.

Section 17. Implementing rules. The Regional Board shall prepare the necessary rules and regulations to implement this Order, subject to the approval of the Secretary of Labor and Employment.

Section 18. Applicability. All laws, orders, issuances, , rules and regulations, or parts thereof inconsistent with the provision of this wage order are hereby repealed, amended or modified accordingly. If any provision of this Order is declared unconstitutional or illegal, the other provisions or parts thereof shall remain valid.

Section 19. Non-diminution of benefits. Nothing in this wage order shall be construed to reduce or diminish any existing wage rates, allowance, or other benefits under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and employers.

Section 20. Penalties. Failure or refusal by any employer to pay the prescribed wage increases under this Order shall be punished by a fine of twenty five thousand pesos (P25,000.00) to one hundred thousand pesos (P100,000.00) and/or imprisonment of not less than two (2) years nor more than four (4) years. Provided, that any person convicted under this Order pursuant to Republic Act No. 6727 as amended by RA No. 8188 shall not be entitled to the benefits under the Probation Law.

If violation is committed by a corporation, trust or any similar entity, the penalty shall be imposed upon its responsible officers, including but not limited to the President, Vice President, Chief Executive Officer, General Manager, Managing Director or partner.

Section 21. Appeal to the Commission. Any party aggrieved by the Wage Order issued by the Board may file and appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing.

Section 22. Effect of Appeal. The filing of the appeal shall not suspend the effectivity of the Wage Order unless the person appealing such Order files with the Commission an undertaking with a surety or sureties in such amount as maybe fixed by the Commission.

Section 23. 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 Commission or Boards.

Section 24. Effectivity. This Order shall take effect on January 1, 1998.

Approved this 23rd day of December, 1997 in Tuguegarao, Cagayan.

(SGD) MELENCIO Q. BALANAG
Board Chairman

(SGD) JOSE V. HIPOLITO
Vice Chairman

SINFOROSO M. BIRUNG
Vice Chairman (ON LEAVE)

(SGD) PERFELITO V. ANCHETA
Employers' Representative

CONSTANCIO S. SILVA
Employers' Representative (ABSENT)

(SGD) EMITERIO C. BALLINAN
Workers' Representative

Republic of the Philippines
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region 2
Tuguegarao, Cagayan

RULES IMPLEMENTING WAGE ORDER NO. RO2-05

Pursuant to the authority granted to the Regional Tripartite Wages and Productivity Board under Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 17 of the Wage Order No. RO2-05, the following rules are hereby issued for guidance and compliance by all concerned.

Section 1. Definition of Terms -

- a. "Order" means Wage Order No. RO2-05;
- b. "Commission" refers to the National Wages and Productivity Commission (NWPC);
- c. "Board" means the Regional Tripartite Wages and Productivity Board (RTWPB) of Region 2;
- d. "Department" refers to the Department of Labor and Employment;
- e. "Region 02" refers to the geographic area in Cagayan Valley covering the provinces of Nueva Vizcaya, Quirino, Isabela, Cagayan and Batanes;
- f. "Agriculture" refers to farming in all its branches and among others, includes the cultivation and tillage of 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 operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products;
- g. "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than twenty four (24) hectares in locality or which employs at least twenty workers. Any other agricultural enterprise shall be considered as non-plantation agricultural enterprise;
- h. "New Business Enterprise" refers to establishments including non-profit institutions, established within two (2) years from the effectivity of this Wage Order based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and Mayor's office;
- i. "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3A of the NWPC New Rules on Exemption. (NWPC) Guidelines No. 01, Series of 1996;
- j. "Establishment adversely affected by calamities" refers to an establishment which incurred losses due to earthquakes, typhoons, fire, floods and similar occurrences;
- k. "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location;

For purposes of determining eligibility for exemption, establishments under the same owner/s but separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.

- l. "Cottage/Handicraft Establishment" is one engaged in an economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship and/or whose capitalization does not exceed P1,500,000.00 regardless of previous registration with the defunct NACIDA;
- m. "Retail Establishment" is one principally engaged in the sale of goods to end users for personal use;
- n. "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;
- o. "Establishment regularly employing not more than seven (7) workers" refers to an establishment employing not more than seven (7), regardless of status, except the owner/s, for at least six (6) months in any calendar year;
- p. "Basic Wage" means all remuneration or earnings paid by an employer to a worker for service rendered on normal working days and hours exclusive of living allowance and exclusive of profit sharing payments, premium payment, 13th month pay or other monetary benefits;
- q. "Minimum Wage Rate" refer to the lowest rate that an employer can pay his workers, as fixed by the Board, which shall not be lower than the applicable minimum wage rates;
- r. "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 services, or other logical bases of differentiation;
- s. "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.
- t. "Mobile workers" are those who by nature of their work have to travel or move from one place to another;
- u. "Branch workers" are those working in branches or agencies of establishments;

Section 2. Amount of Wage Increase - Effective January 1, 1998, all workers and employees in the private sector in Region 02, except those already receiving two hundred twenty pesos (P220.00) or more are granted a wage increase of fifteen (P15.00) pesos per day in their basic wage to be paid on a staggered basis, as follows:

- a) Ten Pesos (P10.00) to be paid on January 1, 1998;
- b) Five (P5.00) to be paid on May 1, 1998

Section 3. Daily Minimum Wage Rates - the daily minimum wage rates of workers and employees shall be as follows:

DAILY MINIMUM WAGE RATES
WAGE ORDER NO. R02-05

INDUSTRY/SECTOR	ISABELA		CAGAYAN		NUEVA VIZCAYA		QUIRINO/BATANES	
	Jan 1, 1998 (+10.00)	May 1, 1998 (+5.00)						
Non-Agriculture	155.00	160.00	152.00	157.00	148.00	153.00	147.00	152.00
Agriculture								
Plantation w/ annual gross sales of P5M or more	145.00	150.00	142.00	147.00	138.00	143.00	137.00	142.00
Plantation w/ annual gross sales of less than P5M	140.00	145.00	137.00	142.00	133.00	138.00	132.00	137.00
Non-Plantation	124.50	129.50	121.50	126.50	117.50	122.50	116.50	121.50
Cottage/Handicraft								
Employing more than 30 workers	133.00	138.00	130.00	135.00	126.00	131.00	125.00	130.00

Employing not more than 30 workers	131.00	136.00	128.00	133.00	124.00	129.00	123.00	128.00
Private Hospitals	151.00	156.00	148.00	153.00	144.00	149.00	143.00	148.00
Retail/Service								
Municipalities & Cities w/ population of more than 150,000								
Employing more than 10 workers	151.00	156.00	148.00	153.00	144.00	149.00	143.00	148.00
Employing not more than 10 workers	124.00	129.00	121.00	126.00	117.00	122.00	116.00	121.00
Sugar								
Mills	157.00	162.00	154.00	159.00	150.00	155.00	149.00	154.00
Agriculture								
Plantation w/ annual gross sales of P5M or more	139.50	144.50	136.50	141.50	132.50	137.50	131.50	136.50
Plantation w/ annual gross sales of less than P5M	134.50	139.50	131.50	136.50	127.50	132.50	126.50	131.50
Non-Plantation	124.50	129.50	121.50	126.50	117.50	122.50	116.50	121.50
BUSINESS ENTERPRISES W/ CAPITALIZATION OF NOT MORE THAN P500,000.00 AND EMPLOYING NOT MORE THAN 20 WORKERS								
Non-Agriculture	145.00	150.00	142.00	147.00	138.00	143.00	137.00	142.00
Agriculture Plantation								
Products other than sugar	135.00	140.00	132.00	137.00	128.00	133.00	127.00	132.00
Sugar	129.50	134.50	126.50	131.50	122.50	127.50	121.50	126.50
Retail/Service								
Municipalities & cities w/ population of not more than 150,000								
Employing more than 10 workers	141.00	146.00	138.00	143.00	134.00	139.00	133.00	138.00
Employing not more than 10 workers	124.00	129.00	121.00	126.00	117.00	122.00	116.00	121.00

Section 4. Coverage - The Wage Order in the region applies to all workers and employees in the private sector as provided for under Section 2 hereof, regardless of their position, designation or their status, and irrespective of the method by which their wages are paid, except household or domestic helpers and persons in the personal service of another, including family drivers.

Section 5. Exemptions - the following establishments may be exempted from complying with this Wage Order upon application with and as determined by the Regional Board in accordance with NWPC Guidelines No. 01, series of 1996 (Rules on Exemption) which governs the processing of application for exemption.

- a) Retail and service establishments regularly employing not more than seven (7) workers/employees;
- b) Distressed establishments;
- c) Establishments/firms which have been adversely affected by calamities;
- d) New business enterprises (NBEs)

Section 6. Criteria for Exemption - The following criteria shall be used to determine whether the applicant establishment is qualified for exemption:

- A. Retail/service establishments regularly employing not more than seven (7) 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 seven (7) 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 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 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. When the net accumulated losses for the last two (2) full accounting periods and interim period, if any, preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review, or

2.a.2. When 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 Order.

2.b. Single proprietorships/partnerships operating for less than (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review.

3. For Non-stock Non-profit Organizations

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, effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period under review.

3.a.2. When an establishment registers capital deficiency i.e., negative fund balance/members' contribution at the beginning of the period as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the 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 Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period under review.

4. For Banks and Quasi-banks

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 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 a distressed establishment under Section 3A of the New Rules on Exemption.

C. Establishments Adversely Affected by 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, floods and similar occurrences, must have occurred within 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 last 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.

D. New Business enterprises (NBEs)

Exemption may be granted to New Business Enterprises (NBEs) established outside the Export Processing Zones (EPZs) within two (2) years from effectivity of the Order classified under any of the following:

1. Agricultural establishments whether plantation or non-plantation.
2. Establishments with total assets after financing of five million (P5,000,000.00) and below.

Section 7. Documents Required - The following supporting documents shall be submitted together with the application;

FOR ALL CATEGORIES OF EXEMPTION:

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

A. For Retail/Service Establishments employing not more than seven (7) workers:

1. Affidavit from employer stating the following:
 - a. It is a retail/service establishment.
 - b. It is regularly employing not more than seven (7) workers for at least six 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 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 Order.

Submission of audited interim financial statements shall be in accordance with the following schedule:

EFFECTIVITY DATE OF WAGE ORDER	INTERIM STATEMENTS REQUIRED
First quarter of year	No interim statements required; only the audited statement for the last two (2) full accounting periods
Second quarter of year	
Month 1	None; same as first quarter
Month 2	None; same as first quarter
Month 3	First Quarter audited statement

Third Quarter of year	
Month 1	First quarter audited statement
Month 2	First quarter audited statement
Month 3	Second quarter audited statement
Fourth quarter of year	
Month 1	Second quarter audited statement
Month 2	Second quarter audited statement
Month 3	First, second and third quarters audited statements

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 direct 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 statement for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency.

D. For New Business Enterprises

1. Affidavit from employer regarding the following:
 - a. principal economic activity
 - b. Date of registration with appropriate government agency
 - c. Amount of total assets
2. Certificate of registration from the appropriate government agency

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

Section 8. Filing for Application for Wage Exemption - An application in three (3) typewritten copies may be filed with the appropriate Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. Application shall be filed not later than sixty (60) days from date of publication of the approved Implementing Rules of the Order. In the case of new business enterprises, application shall be filed not later than sixty (60) days from date of registration. The date of mailing shall be deemed as the date of filing. The application shall be under oath and accompanied by complete supporting documents.

Whenever an application for exemption has been duly filed with the Regional Board, action on any complaint for non-compliance with the Order shall be deferred pending resolution of the petition for exemption by the Regional Board.

In the event that application for exemption is not approved, covered workers and employees shall be paid the mandated wage increase as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

Section 9. Workers Paid by Results

a. All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis shall receive not less than the applicable wage rates as prescribed under the Order for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work less than the normal working hours.

The new applicable minimum wage rate for workers paid by results shall be computed in accordance with the following steps.

1. Amount of increase in Average Monthly Wage (AMW)/Previous Average Monthly Wage $\times 100 = \% \text{ increase}$
2. Existing rate/piece $\times \% \text{ increase} = \text{increase in rate/piece}$
3. Existing rate/piece + increase in rate/piece = adjusted rate/piece

b. The wage rates of workers who are paid by results shall continue to be determined in accordance with Article 101 of the Labor Code, as amended, and its implementing regulations.

Section 10. Wages of Special Group of Workers - Wages of apprentices, learners and handicapped workers shall in no case be less than 75% of the applicable minimum wage rates provided in the Order.

All recognized learnership and apprenticeship agreements entered into before January 1, 1998 shall be considered as automatically modified in so far as their wage clauses are concerned to reflect the increase prescribed under the Order.

Section 11. Application to Contractors - In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractors shall be jointly and severally liable with the principal or client.

Section 12. Mobile and Branch Workers - The minimum wage rate of mobile workers shall be those applicable in the domicile or head office of the employer.

The minimum wage of branch workers shall be those applicable in the place where they are stationed.

Section 13. Transfer of Personnel - The transfer of personnel from one province to another shall not be a valid ground for the reduction of the wage rate being enjoyed by the worker prior to such transfer. However, upon transfer of personnel to another place with higher minimum rate he shall enjoy the corresponding/applicable minimum wage.

Section 14. Basis of Increase in Wage Rates - The increase in wage rates per day prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours work per day.

Section 15. Application to private Educational Institutions. All employees and workers of private educational institutions are covered by the Order, except that its effectivity and implementation shall take effect on June 1, 1998. Provided, however, that any distribution of the employees share in the incremental tuition fee increases as required under Republic Act 6728 equivalent to or higher than the increase herein provided, shall be credited as compliance. Provided finally, that were the distribution of the employees share in the incremental tuition fee increase is lower than the wage increase provided under this Wage Order, the employer shall pay the difference.

Section 16. Creditable Wage Increase -

a. For Organized Establishment

If expressly provided for and agreed upon in the collective bargaining agreements, all increases in the daily basic wage rates granted by the employer three (3) months prior to the effectivity of the Order shall be credited as compliance with the increases in the wage rates prescribed herein provided that such increases are less than the prescribed increase in the wage rates under the Wage Order, the employer shall pay the difference.

b. For Unorganized Establishment.

Increase in the daily basic wage granted by unorganized establishments three (3) months prior to the effectivity of this Wage Order shall be credited as compliance and shall be treated similarly as that of an organized establishment.

Section 17. Wage Distortion - Where the application of the increase in the Wage Order results in distortions of the Wage structure within an establishment, the employer and the union shall

negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved through the grievance procedure under their collective bargaining agreement and, if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In case where there are no collective 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, shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). It shall be mandatory for the NLRC to conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of the increase prescribed in the Order.

Section 18. Complaints for Non-Compliance - Complaints for non-compliance with the wage increase prescribed under the Order shall be filed with the DOLE Regional Office and shall be the subject of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended.

Section 19. Conduct of Inspection by the Department - The DOLE Regional Office 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 the law or the Order. In the conduct of inspection in unionized companies, the DOLE inspectors shall always be accompanied by the President or other responsible officer of the recognized bargaining unit or of any interested union member. In the case of non-unionized establishments, a worker representing the workers in the said company shall accompany the inspector.

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

Section 20. Registration/Reporting Requirement - Any person, company, corporation, partnership or any other entity engaged in business shall submit on or before January 31, 1999 and every year thereafter a verified itemized listing of their labor component to the Regional Board and the National Statistics Office in accordance with the form to be prescribed by the Commission. The listing shall specify the names, salaries and wages of their workers and employees below the managerial level including learners, apprentices and disabled/handicapped workers.

Section 21. Penal Provision - Pursuant to RA 6727, as amended by RA 8188, any person, corporation, trust, firm partnership, association or entity which refuses or fails to pay the prescribed increase under the Order shall be punished by a fine of Twenty Five Thousand Pesos (P25,000.00) to One Hundred Thousand Pesos (P100,000.00) and/or imprisonment of not less than two (2) years nor more than four (4) years. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employee.

Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposable under this Act.

If violation is committed by a corporation, trust, 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 22. Appeal - Any party aggrieved by this Wage Order may file an appeal with the Commission through the Board within ten (10) calendar days from its publication. The Commission shall decide the appeal within sixty (60) calendar days from the filing of the appeal.

The filing of the appeal shall not suspend the effectivity of the Order unless the person or entity appealing files with the Commission an undertaking with a surety in such amount as may be fixed by the Commission for the payment to the employees affected by the wage increase in the event such Wage Order is affirmed.

Section 23. Prohibition Against Injunction - No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceeding before the Regional Board.

Section 24. Non-Diminution of Benefits - Nothing in this Wage Order and the implementing guidelines shall be construed as authorizing the reduction of any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract of agreements between the workers and employers or employer practices or policies.

Section 25. Prohibition on Other Issuances - the provisions of existing laws and decrees on wages, and their corresponding implementing rules and regulations, and issuances not otherwise repealed, modified or found inconsistent with this Order and this Rules shall continue to have full force and effect.

Section 26. Separability Clause - If any provision or part of this Rules is declared unconstitutional or illegal, the other provisions or parts thereof shall remain valid.

Section 27. Effectivity - This Rules shall take effect on January 1, 1998.

Done in Tuguegarao, Cagayan this 23rd day of December, 1997

(SGD) MELENCIO Q. BALANAG
Regional Director, DOLE - RO2
Board Chairman -RTWPB RO2

(SGD) SINFOROSO M. BIRUNG
Regional Director
NEDA - Region 02
Vice Chairman, RTWPB - RO2

(SGD) JOSE V. HIPOLITO
Regional Director
DTI - Region 02
Vice Chairman, RTWPB - RO2

CONSTANCIO S. SILVA
RB Employers' Representative
(ABSENT)

(SGD) PERFELITO V. ANCHETA
RB Employers' Representative

(SGD) EMITERIO C. BALLINAN
RB Employees' Representative

Approved this 4th day of February 1998, subject to the notation below:

(SGD) CRESENCIANO B. TRAJANO
Acting Secretary

NOTATIONS TO THE RULES IMPLEMENTING WAGE ORDER NO. RO2-05

1. The introduction is revised as follows:
"Pursuant to the authority xxx... xxx on Minimum Wage Fixing and Section 17 of Wage Order No. RO2-05, the following rules xxx... xxx."
2. The correct minimum wage rate for cottage/handicraft establishments employing more than 30 workers in the province of Cagayan under Section 3 is P135.
3. The formula/steps under Section 9 a, second paragraph is revised as follows:

"Amount of increase in AMW* x 100% = Increase

Previous AMW
*AMW = Applicable Minimum Wage”

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 holiday:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable daily wage rate (ADR)} \times 391.50 \text{ days}}{12}$$

Where 391.50 days =

302	days	-	Ordinary working days
18.00	days	-	9 regular holidays x 200%
2.60	days	-	1 regular holiday falling on last Sunday of August x 200% + (30% of
200%) 66.30	days	-	51 rest days x 130%
2.60	days	-	2 special days (Nov. 1 & Dec. 31) x 130%
391.50	days	-	Total equivalent number of days

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

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

Where 365 days =

302	days	-	Ordinary working days
51	days	-	Rest days
10	days	-	Regular holidays
2	days	-	Special days (Nov. 1 & Dec. 31)
365	days	-	Total equivalent number of days

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

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

Where 314 days =

302	days	-	Ordinary working days
10	days	-	Regular holiday
2	days	-	Special days- Nov.1& Dec.31 (if considered paid; this is equivalent to 2.6 days if actually
worked) 314	days	-	Total equivalent number of days

Note: The formula for the determining of the Equivalent Monthly Rate (EMR) includes premium for holidays and restdays.

For workers whose restdays fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being a regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them is included in the ten 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.