

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

WAGE ORDER NO. RO2-08
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 interest 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, as early as August 2001, the workers' representatives sitting in the Regional Board conducted consultations with several workers in the region to assess the need to increase the current minimum wage rates;

WHEREAS, the Regional Board has not received any petition for wage increase after one year Wage Order No. RO2-07 took effect on November 1, 2000;

WHEREAS, the employers' representatives sitting in the Regional Board conducted consultations with management and firm owners in Cauayan City, Bayombong in Nueva Vizcaya and Tuguegarao City on March 6, 8, and 16, 2002, respectively, to assess the capacity of employers to increase the current minimum wage in this region;

WHEREAS, the Regional Board motu proprio conducted a public hearing on March 19, 2002 in Santiago City where both labor and management sectors had the opportunity to present and support their respective positions;

WHEREAS, as a result of the consultations, studies conducted and deliberations, this Board finds the need to increase the current minimum wage of the workers to help them cope with the rising cost of living without, however, hampering the growth of business and industry.

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act. No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board (RTWPB) of Region 2, hereby issues this Wage Order No. R02-08:

Section 1. AMOUNT AND EFFECTIVITY OF INCREASE. Effective December 1, 2002, the minimum wage rates for workers in the private sector shall be increased by Five Pesos (P5.00) per day.

Section 2. COVERAGE. The wage increase prescribed under this Order shall apply to minimum wage earners in the private sector regardless of position, designation or 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 3. BASIS OF MINIMUM WAGE. The minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4. EXEMPTIONS. Upon application with, and as determined by, the Regional Board in accordance with NWPC Guideline 01, series of 1996, on Rules of Exemption which governs the processing of applications, the following may be exempted:

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

Section 5. PERIOD FOR FILING APPLICATION FOR EXEMPTION. All applications for exemption from compliance with this Order shall be filed within seventy five (75) days from the date of the publication of the Rules Implementing this Order. In the case of New Business Enterprises (NBEs), 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.

Section 6. 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 7. EFFECT OF APPLICATION FOR EXEMPTION. An application for exemption duly filed shall have the effect of deferring any action on any complaint for non-compliance with the Order until resolution of the application by the Regional Board.

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

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

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

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

Section 10. APPLICATION TO 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, 2003 whether schools have increased tuition fees or not. Provided, however that the employees share in the increase of tuition fees in SY 2002-2003 as required under Republic Act No. 6728 equivalent to or higher than the increase herein provided, shall be credited as compliance. Provided finally, that where the employees share in the increase in tuition fee is lower than the wage increase provided under the Order, the employer shall pay the difference.

Section 11. APPLICATION TO CONTRACTORS. In the case of workers covered by contracts for works and services, the prescribed increase in the minimum wage set forth herein shall be borne by the principal and the contract previously forged between the principal and the contractor shall be deemed amended accordingly. In the event, however, that the principal fails to pay the prescribed increase, the contractor shall be jointly and severally liable with the principal .

Section 12. MOBILE WORKERS. The minimum wage rates 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 13. BRANCH WORKERS. The minimum wage rates of workers working in branches or agencies of establishments within the region shall be those applicable in the place where they are stationed.

Section 14. 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 rates being enjoyed by the worker prior to such transfer. However, where the worker is transferred to an area with higher minimum wage rate, he shall be entitled to the higher minimum wage rate.

Section 15. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of this Order.

Section 16. EFFECT OF FILING OF APPEAL. The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding increase to employees affected by the Order in the event such Order is affirmed.

Section 17. CREDITING OF FACILITIES FURNISHED BY EMPLOYER. Facilities such as board, lodging or others provided by an employer to his workers and capable of being expressed in terms of money whether fixed or ascertained on a time, task, piece or commission basis or other methods of calculating the same may be credited in the minimum wage pay upon voluntary and written acceptance by the workers and the conduct of facility evaluation and the issuance of a corresponding facility evaluation order by the Department of Labor and Employment (DOLE).

Section 18. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the increases in the wage rates under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Art. 124 of the Labor Code, as amended.

Section 19. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 20. NON-DIMINUTION OF BENEFITS. Nothing in this Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 21. PENAL PROVISION. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed minimum wage rates in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 22. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board.

Section 23. FREEDOM TO BARGAIN. This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 24. 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, 2003 and every year thereafter in accordance with the form prescribed by the Commission.

Section 25. REPEALING CLAUSE. All laws, orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

Section 26. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 27. IMPLEMENTING RULES. The Board shall prepare the necessary rules to implement this Order subject to the approval of the Secretary of Labor and Employment.

Section 28. EFFECTIVITY. This Wage Order shall take effect on December 1, 2002.

APPROVED this 13th day of September, 2002 in Tuguegarao City.

(SGD) ERNESTO J. FUECONCILLO
Workers' Representative
(Concurred with reservation)

(SGD) ALFREDO Y. MADRIAGA
Workers' Representative
(Concurred with reservation)

(SGD) CONSTANCIO S. SILVA
Employers' Representative

(SGD) CECILIA LA MADRID-DY
Employers' Representative

(SGD) MILAGROS A. RIMANDO
Vice-Chairman

(SGD) MA. ESPERANZA C. BAÑARES
Vice-Chairman

(SGD) GUERRERO N. CIRILO
Board Chairman

Republic of the Philippines
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region 2
Tuguegarao City
RULES IMPLEMENTING WAGE ORDER NO. RO2-08
Rule I
General Provision

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 26 of Wage Order No. RO2-08, the following rules are hereby issued for guidance and compliance by all concerned.

Section 1. Title

This Rules shall be known as the "Rules Implementing Wage Order No. RO2-08."

Section 2. Definition of Terms.

- a. "*Order*" means Wage Order No. RO2-08;
- 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 and the cities of Santiago, Tuguegarao and Cauayan.
- f. "*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;
- g. "*Retail Enterprise*" is one principally engaged in the sale of goods to end users for personal use;
- h. "*Service Enterprise*" is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such;
- i. "*Non-agriculture Enterprise*" refers to establishments or industries other than agriculture and retail or service regardless of employment size;
- j. "*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;
- k. "*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);
- l. "*Establishments Adversely Affected by Natural Calamities*" refer to establishments which incurred losses due to earthquakes, typhoons, fire and similar occurrences;
- m. "*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.

n. *"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;

o. *"Basic Wage"* means all remunerations 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;

p. *"Minimum Wage Rates"* 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;

q. *"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;

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. *"Mobile Workers"* are those, who by nature of their work, have to travel or move from one place to another;

t. *"Branch Workers"* are those working in branches or agencies of establishments;

u. *"Facility Evaluation"* is the process to determine the fair and reasonable value of facilities such as board, lodging and other facilities customarily furnished by an employer to his employees.

Rule II Minimum Wage Rates

Section 1. The Minimum Wage Rates. The minimum wage rates effective December 01, 2002 shall be as follows:

Industry/Sector	Isabela	Cagayan	N. Vizcaya	Qurino & Batanes
1. Non - Agriculture	185.00	182.00	178.00	177.00
2. Agriculture	173.00	170.00	166.00	165.00
3. Retail/Service				
> Employing more than 10	177.00	174.00	170.00	169.00
> Employing not more than 10	150.00	147.00	143.00	142.00

Section 2. Coverage. The wage increase prescribed under the Order shall apply to minimum wage earners in the private sector in Region 2 regardless of position, designation or 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 3. Basis of Minimum Wage Rates. The daily minimum wage rates prescribed herein

shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4. Application to 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, 2003 whether schools have increased tuition fees or not. Provided, however, that the employees share in the increase of tuition fees in SY 2002-2003 as required under Republic Act 6728 equivalent to or higher than the increase herein provided, shall be credited as compliance. Provided, finally, that where the employees share in the increase in tuition fee is lower than the wage increase provided under the Order, the employer shall pay the difference.

Section 5. Application to Contractors. In the case of workers covered by contracts for works and services, the prescribed increase in the minimum wage set forth herein shall be borne by the principal and the contract previously forged between the principal and the contractor shall be deemed amended accordingly. In the event, however, that the principal fails to pay the prescribed increase, the contractor shall be jointly and severally liable with the principal.

Section 6. Workers Paid by Results. All workers paid by results, including those who are paid on piecework, "takay", "pakyaw", or task basis shall receive not less than the applicable minimum 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 applicable minimum wage rate for workers paid by results shall be computed in accordance with the following step.

- a) Amount of increase in AMW*
----- x 100 = % increase;
Previous AMW
- b) Existing rate/piece x % increase = increase in rate/piece;
- c) 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 determined in accordance with Article 101 of the Labor Code, as amended, and its implementing regulations.

Section 7. Wages of Special Group of Workers. Wages of apprentices and learners 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 the effectivity of the Order shall be considered as automatically modified in so far as their wage clauses are concerned to reflect the increase prescribed under the Order.

Section 8. Mobile Workers - The minimum wage rate of mobile workers shall be those applicable in the domicile or head office of the employer.

Section 9. Branch Workers - The minimum wage rates of branch workers shall be those applicable in the place where they are stationed.

Section 10. 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 wage rate, he shall enjoy the corresponding/applicable minimum wage.

Section 11. Crediting of Facilities Furnished by Employer. Facilities such as board, lodging or others provided by an employer to his workers and capable of being expressed in terms of money whether fixed or ascertained on a time, task, piece or commission basis or other methods of calculating the same may be credited in the minimum wage pay upon voluntary and written acceptance by the workers and the conduct of facility evaluation and the issuance of a corresponding facility evaluation order by the Regional Office of the Department.

Section 12. Appeal to the Commission. Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal with sixty (60) calendar days from the date of filing. The appeal

shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

Section 13. Effect of Appeal. The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

Rule III Exemptions

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

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

Section 2. Duration and Extent of Exemption. Qualified establishments shall be granted full exemption of one (1) year from the effectivity of the Order except for distressed establishments which may be granted partial exemption in accordance with existing rules and guidelines.

Section 3. Criteria for Exemptions. 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 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 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. The net accumulated losses for the last two (2) full accounting periods and interim period, if any, preceding the effectivity of the 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 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 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 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 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 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 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 Order classified under any of the following:

1. Agricultural establishments whether plantation or non-plantation.

2. Establishments with total assets after financing of five million pesos (P5,000,000.00) and below.

Section 4. Documents Required - The following supporting documents 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 their 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

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	First & second quarters audited statements
Fourth quarter of year	
Month 1	Second quarter audited statement
Month 2	Second quarter audited statement
Month 3	First, second & 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 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 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

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

Section 5. Filing of Application for Wage Exemption - An application in three (3) typewritten copies may be filed with the 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 seventy five (75) days from date of publication of the approved Implementing Rules of the Order. In the case of new business enterprises (NBEs), 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.

Section 6. Effect of Application for Exemption. Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be duly notified. Pending resolution of the said application, action on any complaint for non-compliance with the Order shall be deferred by the Regional Office of the Department.

In the event that application for exemption is not approved, covered workers and employees shall be paid the mandated wage rate 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 7. Motion for reconsideration. An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt of the decision, stating the particular ground upon which the motion is based, copy furnished the other party and the Regional Office of the Department.

No second motion for reconsideration shall be entertained in any case. The decision of the Board shall be final and executory unless appealed to the Commission.

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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 391.50 \text{ days}}{12}$$

Where 391.50 days:

302 days - Ordinary working days
18 days - 9 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%
2.60 days - 2 special days x 130%
391.50 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:

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

Where 365 days:

302 days - Ordinary working days
51 days - Rest days
10 days - Regular Holidays
2 days - Special days
365 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 314.6 \text{ days}}{12}$$

Where 314.6 days:

302 days - Ordinary working days
10 days - Regular Holidays
2.6 days - 2 Special days (if worked) x 130%
314.6 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 262.6 \text{ days}}{12}$$

Where 262.6 days:

250 days - Ordinary working days
10 days - Regular Holidays
2.6 days - 2 Special days (if worked) x 130%
262.6 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.

Rule IV Special Provisions

Section 1. Effect on Existing Wage Structure. Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the 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 was 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 any increase prescribed in the Order.

Section 2. Complaints for Non-Compliance. Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 3. Conduct of Inspection by the Department. The Department 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 unit or of any interested union. 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 4. Non-diminution of Benefits. Nothing in the 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 5. 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 increase in the 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) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: 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 6. 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 the Board.

Section 7. Freedom to Bargain. The Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

Section 8. Reporting Requirements. 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, 2003 and every year thereafter in accordance with the form prescribed by the Commission.

Section 9. Repealing Clause. All laws, 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 10. Separability Clause. If any provision or part of the Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 11. Effectivity of Rules. This Rules Implementing Wage Order No. RO2-08 shall take effect on December 1, 2002.

Done in Tuguegarao City this 13th day of September 2002.

(Sgd.) ERNESTO J. FUECONCILLO
Workers' Representative
(Concurred with Reservations)

(Sgd.) EMITERIO C. BALLINAN
Workers' Representative
(Concurred with Reservations)

(Sgd.) CONSTANCIO S. SILVA
Employers' Representative

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

(Sgd.) MILAGROS A. RIMANDO
Vice Chairman

(Sgd.) MA. ESPERANZA C. BAÑARES
Vice Chairman

(Sgd.) GUERRERO N. CIRILO
Chairman

Approved this 16th day of October 2002.

(Sgd.) PATRICIA A. STO. TOMAS
Secretary