

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-09

GRANTING A DAILY EMERGENCY COST OF LIVING ALLOWANCE

WHEREAS, pursuant to its mandate to periodically assess the wage levels, conduct studies and determine and fix minimum wage rates applicable in the region or industry, the Regional Tripartite Wages and Productivity Board – Region II (RTWPB-II) motu proprio initiated a review of the existing minimum wage rates in the light of the current economic conditions;

WHEREAS, the Regional Board conducted the review through public hearings/consultations with firm owners, managers and workers in Tuguegarao City, Santiago City, Cabarroguis in Quirino, and Bayombong in Nueva Vizcaya on June 22, 23, 28 and 29, 2004, respectively;

WHEREAS, as a result of the public hearings /consultations, studies, deliberations, this Board finds the need to provide a daily emergency cost of living allowance (ECOLA) to alleviate the plight of the workers in the private sector without impairing the viability and sustainability of business and industry in the region;

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 – Region II hereby issues this Wage Order:

Section 1. AMOUNT. Upon the effectivity of this Wage Order, all workers in the private sector in Region II receiving a daily basic wage rate of TWO HUNDRED FIFTEEN (P215.00) PESOS and below shall be granted an Emergency Cost of Living Allowance (ECOLA) in the amount of EIGHT (P 8.00) PESOS per day.

Section 2. COVERAGE. The ECOLA prescribed under this Wage Order shall apply to all workers in the private sector in Region II except household or domestic helpers, family drivers, persons employed in the personal service of another and workers of registered Barangay Micro Business Enterprises (BMBEs) with Certificate of Authority pursuant to R.A. 9178 (Barangay Micro Business Enterprises Act).

Section 3. TOTAL COMPENSATION. The total compensation of workers earning the prevailing minimum wage rates in the region shall be as follows:

Industry/Sector	Isabela			Cagayan			Nueva Vizcaya			Quirino/Batanes		
	Basic Wage	ECOLA	TOTAL	Basic Wage	ECOLA	TOTAL	Basic Wage	ECOLA	TOTAL	Basic Wage	ECOLA	TOTAL
1. Non-Agriculture	185.00	8.00	193.00	182.00	8.00	190.00	178.00	8.00	186.00	177.00	8.00	185.00
2. Agriculture	173.00	8.00	181.00	170.00	8.00	178.00	166.00	8.00	174.00	165.00	8.00	173.00
3. Retail /Service												
Employing more than 10	177.00	8.00	185.00	174.00	8.00	182.00	170.00	8.00	178.00	169.00	8.00	177.00
Employing not more than 10	150.00	8.00	158.00	147.00	8.00	155.00	143.00	8.00	151.00	142.00	8.00	150.00

Section 4. BASIS OF ECOLA. The Emergency Cost Of Living Allowance prescribed under this Wage Order shall be for the normal working hours which shall not exceed eight (8) hours work a day.

Section 5. 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 2004-2005 shall be considered as compliance with the emergency cost of living allowance prescribed herein. However, payment of any shortfall in the allowance set forth herein shall be covered starting School Year 2005-2006.

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

In any case, all private educational institutions shall implement the allowance prescribed herein starting School Year 2005-2006.

Section 6. APPLICATION TO CONTRACTORS. In the case of workers covered by contracts for works and services, the prescribed allowance set forth herein shall be borne by the principal and the contract previously forged between the principal and the contractor is deemed amended accordingly. In the event that the principal fails to pay the prescribed allowance, the contractor shall be jointly and severally liable with the principal.

Section 7. WORKERS PAID BY RESULTS. All workers paid by result, including those who are paid on piecework, "takay," "pakyaw" or task basis, shall be entitled to receive the prescribed allowance per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 8. ALLOWANCES OF SPECIAL GROUPS OF WORKERS. The allowances of apprentices and learners shall in no case be less than seventy-five (75%) of the ECOLA prescribed in this Wage Order. All handicapped employees shall receive the full amount of emergency cost of living allowance prescribed herein.

Section 9. MOBILE WORKERS. The ECOLA 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 10. BRANCH WORKERS. The ECOLA of workers working in branches or agencies of establishments within the region shall be those applicable in the place where they are station.

Section 11. TRANSFER OF PERSONNEL. The transfer of personnel to areas with lower ECOLA, if any, shall in no case be a valid ground for the reduction of the higher ECOLA being enjoyed by the worker prior to such transfer. However, where the worker is transferred to an area with higher ECOLA, he shall be entitled to the higher ECOLA.

Section 12. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal to the Commission through the Board within ten (10) calendar days from the publication of this Wage Order.

Section 13. EFFECT OF FILING OF APPEAL. 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 workers affected by the Wage Order in the event such Wage Order is affirmed

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

In the case of unorganized establishments, wage increases/allowances/any monetary benefits granted three (3) months prior to the effectivity of this Wage Order shall be considered as full or partial compliance, as the case may be.

Section 15. EXEMPTIONS. Upon application with and as determined by the Board, based on documentation and other requirements in accordance with the applicable rules and regulations issued by the Commission, the following may be exempted from the applicability of this Wage Order:

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

Section 16. PERIOD FOR FILING APPLICATION FOR EXEMPTION. All applications for exemption from compliance with this Wage Order shall be filed within seventy-five (75) days from the date of publication of the Rules Implementing the Wage Order, with complete supporting documents as specified in the Rules. Failure to submit the required supporting documents within the prescribed period will be tantamount to dismissal of the application for exemption.

Section 17. EXTENT AND DURATION OF EXEMPTION. A full exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3 of NWPC Guidelines No. 01, series of 1996. However, a partial exemption of 50% with respect to the amount or period of exemption may be granted in the case of distressed establishments.

Section 18. EFFECT OF APPLICATION FOR EXEMPTION. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with this Order shall be deferred pending its resolution. In the event that the application for exemption is not granted, the employees of the applicant firm shall receive the appropriate ECOLA due them as provided for in this Wage Order, together with the payment of interest amounting to one percent (1%) per month retroactive to the effectivity of this Wage Order.

Section 19. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the ECOLA prescribed in this Wage Order results in distortion in the wage structure within the establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code of the Philippines, as amended.

Section 20. 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 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 21. NON-DIMINUTION OF BENEFITS. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or other benefits under existing laws, decrees, issuance, and executive orders or under any contract or agreement between workers and employers.

Section 22. PENAL PROVISION. Any employer who refuses or fails to pay the prescribed emergency cost of living allowance provided under this Wage Order shall be subject to the penalties specified under R.A. 6727 as amended by R.A. 8188.

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 Board.

Section 24. FREEDOM TO BARGAIN. This Wage Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher allowance with their respective employers.

Section 25. REPORTING REQUIREMENT. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2005 and every year thereafter in accordance with the form prescribed by the Commission.

Section 26. REPEALING CLAUSE. All 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 27. SEPARABILITY CLAUSE. If any provision or part of this Wage Order is declared unconstitutional, or illegal, the other provisions or parts thereof shall remain valid.

Section 28. IMPLEMENTING RULES. The Board shall prepare the necessary rules and regulations to implement this Wage Order subject to the approval of the Secretary of Labor and Employment.

Section 29. EFFECTIVITY. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

APPROVED this 13th day of **July 2004** at Tuguegarao City.

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

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

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

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

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

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

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

Dissenting Opinion on the Issuance of Wage Order No. RTWPB-II-09, Granting a Daily Emergency Cost of Living Allowance

The undersigned Workers' Representatives of the Regional Tripartite Wages and Productivity Board (RTWPB), Region II hereby file this dissenting opinion on the grant of the daily emergency cost of living allowance for the following reasons:

1. The P8.00/day ECOLA approved by the body must be increased to P10.00/day. The reasons are too obvious to deny.
2. The P10.00/day ECOLA which we proposed will at least provide an acceptable consideration for the temporary alleviation in the plight of workers and will not in any manner impair the viability and sustainability of business and industry in the region, hence, it should be across the board.

Tuguegarao City

July 19, 2004

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

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

Note: Wage Order published in the July 18-24, 2004 issue of the Northern Forum.

Effectivity Date: August 8, 2004