

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD NO. 3
San Fernando, Pampanga

WAGE ORDER NO. RBIII-12

**PROVIDING FOR AN ADDITIONAL COST OF LIVING ALLOWANCE IN
REGION III**

WHEREAS, by virtue of Republic Act 6727, the Regional Tripartite Wages and Productivity Board-Region III, hereinafter referred to as the Board, is mandated to determine and fix minimum wage rates and periodically review the same in relation to prevailing socio-economic and other conditions in the Region;

WHEREAS, on May 23, 2006, the Trade Union Congress of the Philippines (TUCP) filed a petition for a P75.00 wage increase with the Board;

WHEREAS, in response to the wage petition and in compliance with requirements of the rules on minimum wage fixing, the Board conducted a series of sectoral consultations on June 27, June 29, July 4 and July 11, 2006 and a public hearing on July 13, 2006;

WHEREAS, based on the results of the sectoral consultations and public hearing, the Board decided to provide workers immediate relief from rising costs of living taking into account the interests of both labor and management as well as the continued and sustained viability of business and industry;

WHEREAS, the Board recognizes the need to simplify the present wage structure in the Region in order to provide workers with safety net protection against unduly low wages and to have an effective and efficient administration and enforcement of the wage standards.

NOW THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Board hereby issues this Wage Order:

Section 1. AMOUNT OF COLA INCREASE. Upon the effectivity of this Wage Order, an additional COLA of P18.50 per day shall be granted to all minimum wage earners in the region except in the non-agricultural sector, regardless of total assets, in the province of Bulacan which shall be granted an additional COLA of P14.50 per day. Minimum wage earners in Aurora shall be granted a COLA of P10.00 per day.

Section 2. NEW MINIMUM WAGE RATES.. Upon effectivity of this Wage Order, the new minimum wage rates in the region shall be as follows:

Sector	BULACAN			
	Basic Wage	COLA under WO RBIII-11	COLA under WO RBIII-12	Minimum Wage under WO RBIII-12
Non-Agriculture				
Establishment with total assets of P30M or more	243.50	20.00	14.50	278.00
Establishment with total assets of less than P30M	236.00	20.00	14.50	270.50
Agriculture				
Plantation	209.50	20.00	18.50	248.00
Non-Plantation	193.50	20.00	18.50	232.00
Hospitals				
With 20 or more bed capacity	230.50	20.00	18.50	269.00
With less than 20 bed capacity	215.50	20.00	18.50	254.00
Retail/Service				
With 16 or more workers	228.50	20.00	18.50	267.00
With less than 16 workers	214.50	20.00	18.50	253.00
Cottage/Handicraft	193.50	20.00	18.50	232.00

Sector	BATAAN, NUEVA ECIJA, PAMPANGA, TARLAC, ZAMBALES			
	Basic Wage	COLA under WO RBIII-11	COLA under WO RBIII-12	Minimum Wage under WO RBIII-12
Non-Agriculture				
Establishment with total assets of P30M or more	239.50	20.00	18.50	278.00
Establishment with total assets of less than P30M	232.00	20.00	18.50	270.50
Agriculture				
Plantation	209.50	20.00	18.50	248.00
Non-Plantation	193.50	20.00	18.50	232.00
Hospitals				
With 20 or more bed capacity	230.50	20.00	18.50	269.00
With less than 20 bed capacity	215.50	20.00	18.50	254.00
Retail/Service				
With 16 or more workers	228.50	20.00	18.50	267.00
With less than 16 workers	214.50	20.00	18.50	253.00
Cottage/Handicraft	193.50	20.00	18.50	232.00

AURORA PROVINCE				
Sector	Basic Wage	COLA under WO RBIII-11	COLA under WO RBIII-12	New Minimum Wage under WO RBIII-12
Non-Agriculture	197.00	20.00	10.00	227.00
Agriculture				
Plantation	182.00	20.00	10.00	212.00
Non-Plantation	162.00	20.00	10.00	192.00
Retail/Service employing not more than 10 workers	119.00	20.00	10.00	149.00
Cottage Handicraft	170.00	20.00	10.00	200.00

Section 3. COLA INTEGRATION. One year after effectivity of this Wage Order, the cost of living allowances (COLA) under Wage Order Nos. RBIII-11 and 12, shall be integrated into the basic wage of all covered workers.

Section 4. COVERAGE. The COLA increase provided herein shall apply to all minimum wage workers and employees in the private sector in Region III regardless of position, designation or status of employment and irrespective of the method by which their wages are paid. Not covered in this Wage Order are household or domestic helpers and persons employed in the personal service of another including family drivers and workers of Barangay Micro Business Enterprises with Certificates of Authority, pursuant to R.A. 9178.

Section 5. BASIS OF COLA INCREASE. The COLA increase prescribed under the Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 6. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piecework, “takay”, “pakyaw”, or task basis, shall be entitled to receive the prescribed wage rate in this order per eight (8) hours a day, or a proportion thereof for working less than eight (8) hours.

Section 7. SPECIAL GROUP OF WORKERS. The wage rate of apprentices and learners shall in no case be less than seventy-five percent (75%) of the prescribed minimum wage rate in this Wage Order.

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

Section 8. PRODUCTIVITY-BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes, such as, time and motion studies, good housekeeping, quality circles, labor-management

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

Section 9. PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of workers and employees covered in the increase in tuition fees for School Year 2006-2007 shall be considered as compliance with this Wage Order. Where the share of the workers and employees is less than what is provided herein, the employer shall pay the difference starting School Year 2007-2008.

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

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

Section 10. CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage rates of the workers shall be borne by the principals or clients of the construction/service contractors and their contracts shall be deemed amended accordingly. In the event, however, that the principals or clients fail to pay the prescribed increases, the construction/service contractors shall be jointly and severally liable with his principal or client.

Section 11. EXEMPTION. Upon application with and as determined by the Board, the following may be exempt from the applicability of this Wage Order, subject to applicable rules and regulations issued by the Commission:

1. Retail and service establishments employing not more than ten (10) workers at the time of the publication of this Wage Order;
2. Distressed Establishments, as defined in the NWPC Guidelines No. 01, Series of 1996 ;
3. Garment and Textile Exporting firms, including indirect exporters, with at least fifty percent (50%) export sales and with forward contracts with their foreign buyers/principals entered into on or twelve (12) months before the effectivity of this Wage Order and without escalation clauses with respect to the contract prices thereof, may be exempt during the lifetime of the said contract but not to exceed twelve (12) months from effectivity of this Wage Order.

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 the Order.

Section 13. 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 14. CREDITING. Increases granted by an employer within ninety (90) days prior to the effectivity of this Wage Order shall be credited as compliance with the Order, provided that, where such increases are less than what is provided in the Order, the employer shall pay the difference.

Such increases shall not include anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employee, unless there is an agreement expressly allowing such crediting.

SECTION 15. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the COLA prescribed in this Wage Order results in distortions in the wage structure within the establishment, the wage distortions may be resolved using the following formula:

$$\frac{\text{Minimum Wage Under Wage Order No. RBIII-11 X}}{\text{Present Salary}} \times \text{Amount of COLA in WO RBIII-12} = \text{Amount of COLA due to distortion}$$

Section 16. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Wage Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 17. NON-DIMINUTION OF BENEFITS. Nothing in this Wage Order shall be construed to reduce any existing wage rates, allowances, and benefits of any form under existing laws, decrees, issuance, executive orders and/or under any contract or agreement between workers and employers.

Section 18. PENAL PROVISION. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage rates in accordance with this Wage Order shall be subject to the penal provisions under R.A. 6727, as amended by R.A. 8188.

Section 19. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal, or other entity against any proceedings before the Board.

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

Section 21. REPORTING REQUIREMENTS. Any person, company, corporation, partnership, or any entities engaged in business shall submit a

verified itemized listing of their labor component to the Board not later than January 31, 2007 and every year thereafter in accordance with the form prescribed by the Commission.

Section 22. REPEALING CLAUSE. All orders, rules, and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

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

Section 24. IMPLEMENTING RULES. The Board shall prepare the necessary rules to implement this Wage Order subject to the approval of the Secretary of Labor and Employment.

Section 25. EFFECTIVITY. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

APPROVED this 17th day of July 2006, City of San Fernando, Pampanga.

SIGNED

JOSE T. DE LEON
Member

SIGNED

FLORDELIZA MA. REYES-RAYEL
Board Member

***We dissent. Amount of increase is insufficient and there should be no wage exemption.**

***RAUL C. REMODO**
Board Member

***EDGAR B. VENTURA**
Board Member

SIGNED
REMIGIO A. MERCADO
Vice-Chairperson

SIGNED
BLESILA A. LANTAYONA
Vice-Chairperson

SIGNED
ALAN M. MACARAYA
Chairperson

Date of Publication: 19 July 2006, Sun Star Pampanga
Date of Effectivity: 03 August 2006

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD NO. 3
REGION III – CENTRAL LUZON

RULES IMPLEMENTING WAGE ORDER NO. RBIII-12

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 24 of Wage Order No. RBIII-12, the following rules are hereby issued for the guidance and compliance by all concerned.

RULE I
GENERAL PROVISIONS

Section 1. **TITLE.** This Rules shall be known as the “Rules Implementing Wage Order No. RBIII-12”

Section 2. **DEFINITION OF TERMS.** As used in this Rules.

- a) Order refers to Wage Order No. RBIII-12;
- b) Board refers to the Regional Tripartite Wages and Productivity Board in Region III;
- c) Commission refers to the National Wages and Productivity Commission;
- d) Department refers to the Department of Labor and Employment;
- e) Cost of Living Allowance (COLA) refers to Cost of Living Allowance;
- f) Region III covers the Provinces of Aurora, Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac, Zambales and the Cities of Angeles, Balanga, Cabanatuan, Gapan, Malolos, Munoz, Olongapo, Palayan, San Fernando, San Jose, San Jose Del Monte and Tarlac;
- g) Agriculture refers to farming in all its branches including 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 connection with such farming operations. This does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products;
- h) Plantation Agricultural Enterprise is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least twenty (20) workers. Any other agricultural enterprise shall be considered as “Non-Plantation Agricultural Enterprise”;
- i) 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 whose capitalization does not exceed P3.0 million (in conformity with SMEDC Resolution No. 1, Series of 2003) regardless of previous registration with the defunct NACIDA;
- j) Establishment refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location;
- k) Retail Establishment refers to one principally engaged in the sale of goods to end-users for personal or household use. A retail establishment that regularly engage in wholesale activities loses its retail character;

- l) Service Establishment refers to one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such;
- m) Distressed Employer refers to employers/establishments which meet the criteria enumerated in Section 3 (A) of the NWPC Guidelines No. 01, Series of 1996 on the Rules on Exemption;
- n) Garment and Textile Exporting Firm refers to any person, natural or juridical, licensed to do business in the Philippines, engaged directly or indirectly in the manufacture or trade of garments or services which earn at least fifty (50%) of its normal operating revenues from the sale of garments or services abroad for foreign currency. In the case of indirect exporters, the requirement that products or services be sold "abroad for foreign currency" shall not apply as, by the very nature of their business, the sale of garments or services takes place in the Philippines and such indirect exporters are usually paid in Philippine Currency;
- o) Indirect exporter refers to a person, firm or corporation who performs any production process for a manufacturer or exporter of garments;
- p) Wage Distortion refers to a situation where an increase in the prescribed wage rates results in the elimination or severe contraction of intentional quantitative difference in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service or other logical bases of differentiation;
- q) Barangay Micro Business Enterprise (BMBE) refers to any business entity or enterprise granted a Certificate of Authority under Republic Act No. 9178;
- r) Capitalization refers to the paid-up capital, in the case of corporation, and total invested capital, in the case of a partnership or single proprietorship;
- s) Full Accounting Period refers to a period twelve (12) months or one (1) year of business operations;
- t) Total Assets refers to all kinds of properties, real or personal, owned by the firm and use for the conduct of its business;
- u) Deficit refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, dividend distribution, prior period adjustments and other capital adjustments;
- v) Stock Corporation refers to one organized for profit and issues shares of stock to its members;
- w) Non-stock Non-profit Organization refers to one organized principally for public purposes such as charitable, educational, cultural or similar purposes and does not issue shares of stock to its members;
- x) Partnership refers to an association of two or more persons who bind themselves to contribute money, property or industry to a common fund with the intention of dividing the profits among themselves or the exercise of a profession;
- y) Single Proprietorship refers to a business unit owned and controlled by one person;
- z) Cooperative refers to a duly registered association of persons who voluntarily join together to form a business establishment which they themselves own, control and patronized and which may fall under any of the following types: credit, consumers, producers, marketing, service or multi-purpose;
- aa) Quasi-banks refers to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.

RULE II
COST OF LIVING ALLOWANCE

Section 1. **COST OF LIVING ALLOWANCE.** Effective August 3, 2006, an additional Cost of Living Allowance (COLA) of P18.50 per day shall be granted to all minimum wage earners in the Region except in the non-agricultural sector, regardless of total assets of the establishments, in the Province of Bulacan who shall be granted an additional COLA of P 14.50 per day. Minimum wage earners in Aurora shall be granted a COLA of P10.00 per day.

Section 2. **NEW MINIMUM WAGE RATES.** The daily minimum wage rates in Region 3 shall be as follows:

Sector	Province of Bulacan			
	Basic Wage	COLA under WO No. RBIII- 11	COLA under WO No. RBIII-12	Minimum Wage Under WO No. RBIII-12
NON-AGRICULTURE				
Establishment with total assets of P30 million or more	P 243.50	P 20.00	P14.50	P278.00
Establishment with total assets of less than P30 million	236.00	20.00	14.50	270.50
AGRICULTURE				
Plantation	209.50	20.00	18.50	248.00
Non-Plantation	193.50	20.00	18.50	232.00
HOSPITALS				
With bed capacity of 20 or more	230.50	20.00	18.50	269.00
With bed capacity of less than 20 beds	215.50	20.00	18.50	254.00
RETAIL/SERVICE				
Establishment with 16 or more employees	228.50	20.00	18.50	267.00
Establishment with less than 16 employees	214.50	20.00	18.50	253.00
COTTAGE/HANDICRAFT				
	193.50	20.00	18.50	232.00

Sector	Provinces of Bataan, Nueva Ecija, Tarlac, Zambales and Pampanga			
	Basic Wage	COLA under WO No. RBIII- 11	COLA under WO No. RBIII-12	Minimum Wage Under WO No. RBIII-12
NON-AGRICULTURE				
Establishment with total assets of P30 million or more	P 239.50	P 20.00	P 18.50	P278.00
Establishment with total assets of less than P30 million	232.00	20.00	18.50	270.50
AGRICULTURE				
Plantation	209.50	20.00	18.50	248.00

Non-Plantation	193.50	20.00	18.50	232.00
HOSPITALS				
With bed capacity of 20 or more	230.50	20.00	18.50	269.00
With bed capacity of less than 20 beds	215.50	20.00	18.50	254.00
RETAIL/SERVICE				
Establishment with 16 or more employees	228.50	20.00	18.50	267.00
Establishment with less than 16 employees	214.50	20.00	18.50	253.00
COTTAGE/HANDICRAFT	193.50	20.00	18.50	232.00

Sector	Province of Aurora			
	Basic Wage	COLA under WO No. RBIII-11	COLA under WO No. RBIII-12	Minimum Wage Under WO No. RBIII-12
NON-AGRICULTURE	P 197.00	P20.00	P10.00	P227.00
AGRICULTURE				
Plantation	182.00	20.00	10.00	212.00
Non-Plantation	162.00	20.00	10.00	192.00
RETAIL/SERVICE EMPLOYING NOT MORE THAN 10 WORKERS	119.00	20.00	10.00	149.00
COTTAGE/HANDICRAFT	170.00	20.00	10.00	200.00

Section 3. **INTEGRATION OF THE COLAs UNDER WO NO. RBIII-11 AND WO NO. RBIII-12.** The Cost of Living Allowances (COLAs) under Wage Order No. RBIII-11 and Wage Order No. RBIII-12 shall be integrated in to the basic wage of all covered workers effective August 3, 2007.

Section 4. **COVERAGE.** The Cost of Living Allowance provided in the Wage Order shall apply to all covered workers and employees in the private sector in Region 3 regardless of position, designation or status of employment and irrespective of the method by which their wages are paid. Not covered in this Order are household or domestic helpers and persons employed in the personal service of another including family drivers; and workers of Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority, pursuant to R.A. 9178.

Section 5. **BASIS OF COST OF LIVING ALLOWANCE (COLA) INCREASE.** The COLA prescribed herein shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 6. **APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2006 -2007 shall be credited as compliance with the Wage Order. In case of any shortfall, the employer shall pay the difference starting School Year 2007-2008.

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

In any case, all private educational institutions shall implement the cost of living allowance prescribed in the Order starting School Year 2007-2008.

Section 7. **APPLICATION TO WORKERS COVERED BY CONTRACTS FOR WORKS AND SERVICES.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed cost of living allowance of the workers shall be borne by the principal or clients of the construction/service contractors and their contracts shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed cost of living allowance, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8 **WORKERS PAID BY RESULTS.** All covered workers paid by results, including those who are paid on piecework, “takay”, “pakyaw”, or task basis, shall receive not less than the prescribed cost of living allowance under the Order for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

The adjusted cost of living allowance for workers paid by results shall be computed in accordance with the following steps:

- a)
$$\frac{\text{Amount of COLA}^*}{\text{Previous AMW}^{**}} \times 100 = \% \text{ increase}$$
- b) Existing rate/piece x % increase = Increase in rate/piece
- c) Existing rate/piece + Increase in rate/piece = Adjusted rate/piece

* Where COLA is the cost of living allowance

** AMW is the applicable minimum wage

Section 9. **ALLOWANCES OF SPECIAL GROUPS OF WORKERS.** The COLA of apprentices and learners shall in no case be less than seventy-five percent (75%) of the prescribed allowance in the 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 COLA prescribed under the Order.

Section 10. **MOBILE AND BRANCH WORKERS.** The COLA of workers, who by nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

The COLA of workers working in branches or agencies of establishments within the Region shall be those applicable in the place where they are stationed.

Section 11. **TRANSFER OF PERSONNEL.** The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the COLA being enjoyed by the workers prior to such transfer. The workers transferred to the other Regions with higher wage rates shall be entitled to the COLA applicable therein.

Section 12. **APPEAL TO THE COMMISSION.** Any party aggrieved by the Wage Order may file an appeal with the Commission through the Board 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. 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 THE 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. **WHO MAY BE EXEMPTED.** The following establishments may be exempted from the payment of the prescribed cost of living allowance upon application with and as determined by the Board based on documentation and other requirements submitted in accordance with the applicable rules and regulations issued by the Commission:

1. Retail and service establishments employing not more than ten (10) workers at the time of the publication of this Wage Order;
2. Distressed Establishments, as defined in the NWPC Guidelines No. 01, Series of 1996; and
3. Garment and Textile exporting firms, including indirect exporters, with at least fifty percent (50%) export sales and with forward contracts with their foreign buyers/principals entered into on or 12 months before August 3, 2006 and without escalation clauses with respect to the contract prices thereof, may be exempt during the lifetime of the said contract but not to exceed twelve (12) months from the effectivity of the Wage Order.

Section 2. **APPLICATION FOR EXEMPTION.** Within seventy-five (75) days from date of publication of this Rules, an application for exemption shall be filed with the Board in two (2) typewritten copies by the owner/manager or duly authorized representative of an establishment, either through personal service or by registered mail. The date of mailing shall be deemed the date of filing.

The application for exemption may also be filed with the DOLE Regional Office, District or Provincial satellite offices pursuant to NWPC Resolution No. 03 series of 2004.

All applications for exemption shall be under oath and must be supported by a proof of notice to the Union/s or if there is no union a copy of the circular giving general notice to all workers that an application for exemption from compliance with the Wage Order has been filed with the Board. 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.

All applications for exemption shall also be supported with a certificate of registration as a business enterprise from the appropriate government agency/ies (e.g. Securities and Exchange Commission (SEC) registration in the case of a corporation, partnership or association; Cooperative Development Authority (CDA) registration in the case of cooperative; Department of Trade and Industry (DTI) business name registration in the case of sole proprietorship;

Section 3. **CRITERIA AND ADDITIONAL SUPPORTING DOCUMENTS FOR EXEMPTION.** In order to determine whether an applicant establishment is qualified for exemption, the following are the criteria and additional supporting documents required:

For Retail/Service Establishments

A. Criteria

1. Engaged in the retail sale of goods or services to end-users for personal or household use; and

2. Employing not more than ten (10) workers regardless of status except the owner/s for at least six months in any calendar year.

B. Additional Supporting Documents

1. An affidavit from the employer stating the principal economic activity, the number of workers employed in the establishment, amount of total assets .
2. Business permit for the current year from the appropriate government agency/cies.
3. Undertaking under oath that the employer has complied with Wage Order No. RBIII-11.

For Distressed Establishments

A. Criteria

1. For stock corporations/cooperatives, deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order amounts to twenty percent (20%) or more of the paid-up capital for the same period; or registers a capital deficiency i.e. negative stockholders' equity as of the last full accounting period immediately preceding the effectivity of the Order.
2. For single proprietorship/partnerships operating for at least two (2) years, the net accumulated losses for the last two (2) full accounting periods or interim period, if any, preceding the effectivity of the Order amounts to twenty percent (20%) or more of the total invested capital at the beginning of the period under review; or the establishment registers capital deficiency i.e. negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.

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 amounts to twenty percent (20%) or more of the total invested capital at the beginning of the period under review.

3. For non-stock, non-profit organizations operating for at least two (2) years, when the net accumulated losses for the last two (2) full accounting periods preceding and interim period, if any, immediately preceding the effectivity of the Order amounts to twenty percent (20%) or more of the fund balance/members' contribution at the beginning of the period under review, or when an establishment registers capital deficiency i.e. negative fund balance/members' contribution as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.

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 twenty percent (20%) or more of the fund balance/members' contribution at the beginning of the period under review.

4. For banks and quasi-banks under receivership/liquidation, a certification from the Bangko Sentral ng Pilipinas (BSP) that it is under receivership or liquidation as provided in Section 30 of RA 6753, otherwise known as the New Central Bank Act.

Banks under controllership/conservatorship may apply for exemption as a distressed establishment under Section 3A of NWPC Guidelines No. 01 , Series of 1996.

B. Additional Supporting Documents

1. For corporations, cooperatives, single proprietorships, partnerships, non-stock, non-profit organizations:
 - a. An affidavit from the employer stating the principal economic activity, number of workers employed in the establishment and union (if any);

- b. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the year 2004 and 2005 filed with and stamped "received" by the Securities and Exchange Commission (SEC) and the Bureau of Internal Revenue (BIR)/Bank;
 - c. Audited interim quarterly financial statements (together with the Auditor's opinion and notes thereto) for the first quarter of 2006, where applicable;
 - d. Annual income tax returns for the last two taxable periods, filed with and "stamped" received by the BIR;
 - e. First quarter income tax returns for 2006, filed with and stamped "received" by the BIR, where applicable.
 - f. Undertaking under oath that the employer has complied with Wage Order No. RBIII-11.
2. For Banks and Quasi-Banks
- a. Certification from the Bangko Sentral ng Pilipinas that it is under receivership/liquidation;

For Garment and Textile Exporting Firms, Including Indirect Exporters

A. Criteria

- 1. Engaged in the manufacture or processing of garments and textile;
- 2. Must have at least fifty percent (50%) export sales;
- 3. Must have forward contracts executed on or twelve (12) months before August 3, 2006;

B. Additional Supporting Documents

- 1. Affidavit from the employer stating the following:
 - a. Principal economic activity, number of workers and existing union if any;
 - b. List of forward contracts entered into stating the name of foreign buyers or principals and their addresses, date of contracts, delivery or shipping dates and amount of volume of orders;
- 2. Certification from the Board of Investment or any appropriate government agency that the Company has fifty percent (50%) or more export sales;
- 3. Undertaking under oath that the employer has complied with Wage Order No. RBIII-11;
- 4. Certified true copies of forward contracts;
- 5. Irrevocable letters of credit/Proof of payment from Principal;
- 6. Notarized Purchase orders;
- 7. Proof of acceptance of the purchase order;
- 8. Bills of lading/Delivery Receipts

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

Section 4. **DURATION AND EXTENT OF EXEMPTION.** The Board shall grant full exemption to all categories of establishments that meet the applicable criteria for exemption, but in no case shall it exceed one (1) year from August 3, 2006, in accordance with the provisions of Section 8, NWPC Guidelines No. 01, series of 1996.

In the case of distressed establishments, the Board may grant partial exemption of 50% with respect to the amount or period of exemption pursuant to Section 8, NWPC Guidelines No. 01, series of 1996

Section 5. **EFFECT OF FILING 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 alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

Section 6. **EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION.** In the event that the application for exemption is not approved, affected workers shall be paid the prescribed cost of living allowance as provided for in the Order retroactive to the date of the effectivity of the order plus simple interest of one percent (1%) per month retroactive to the effectivity of the Wage Order.

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 grounds 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. **APPEAL.** Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two (2) legible copies, not later than ten (10) days from receipt of the decision. The appeal must be filed in the manner prescribed by the Commission and must be based on any of the following grounds:

- a. non-conformity with the prescribed guidelines/procedures on exemption;
- b. prima facie evidence of grave abuse of discretion on the part of the Board; or
- c. questions of law.

RULE IV CREDITABLE INCREASE

Section 1. Increases granted by employers within three (3) months prior to the effectivity of this Wage Order shall be credited as compliance with the Order. Increases outside this period shall be credited only if an agreement to this effect has been forged between the parties or there is a collective bargaining agreement provision which allows the crediting of such wage increases. In case the increases are less than the prescribed adjustment in the Order, the employer shall pay the difference.

Such increases shall not include anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employee, unless there is agreement expressly allowing such crediting.

RULE V WAGE DISTORTION

Section 1. **EFFECT ON EXISTING WAGE STRUCTURE.** Pursuant to Article 124 of the Labor Code of the Philippines, as amended, any dispute that should arise as a result of a significant wage distortion, the employer and the union shall negotiate to correct the distortion 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 cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board (NCMB) and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

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

RULE VI SPECIAL PROVISIONS

- Section 1. **PRODUCTIVITY-BASED WAGES.** In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes, such as, time and motion studies, good housekeeping, quality circles, labor-management cooperation, as well as implement gainsharing programs. Accordingly, the Regional Board shall provide the necessary studies and technical assistance pursuant to RA 6971, the Productivity Incentives Act of 1990.
- Section 2. **COMPLAINTS FOR NON-COMPLIANCE.** Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace 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 inspection of establishments, as often as necessary, to determine whether workers are paid the minimum wage rates prescribed in the Wage Order 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 representative chosen by the workers in the said company shall accompany the Department 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 Department 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, issuance, 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 wage adjustments 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 (P100,000.00) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

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 Board.
- Section 7. **FREEDOM TO BARGAIN.** The Wage Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.
- Section 8. **REPORTING REQUIREMENTS.** Any person, company, corporation, partnership, or any entities engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2007 and every year thereafter in accordance with the form prescribed by the Commission.
- Section 9. **REPEALING CLAUSE.** All orders, 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.** This Rules shall take effect on _____, 2006.

APPROVED this 8th day of August 2006, City of San Fernando, Pampanga.

JOSE T. DE LEON
Board Member

FLORDELIZA MA. REYES-RAYEL
Board Member

RAUL C. REMODO
Board Member

EDGAR B. VENTURA
Board Member

REMIGIO A. MERCADO
Vice-Chairperson

BLESILA A. LANTAYONA
Vice-Chairperson

ALAN M. MACARAYA

Chairperson

APPROVED this ____ th day of _____, 2006.

ARTURO D. BRION

Secretary, Department of Labor and Employment

NOTATIONS ON RULES IMPLEMENTING
WAGE ORDER NO. RBIII-12

1. On Section 2, letters “t” and “aa”, Rule I. DEFINITION OF TERMS

In letter “t” - 1) The word “refers” between the words “Assets” and “to” should be changed to “refer”

2)The word “use” between the words “and” and “for” should be changed to “used”

In letter “aa” - The word “refers should be changed to “refer”

2. On Section 9 (2nd paragraph), Rule II. ALLOWANCES OF SPECIAL GROUPS OF WORKERS.

On the Second Paragraph - The word “clausesare” should be written as “clauses are”

3. On Section 1 (1st paragraph, 2nd sentence), Rule IV. CREDITABLE INCREASE.

The sentence “increases outside this period shall be credited only if an agreement to this effect has been forged between the parties or there is a collective bargaining agreement provision which allows the crediting of such wage increases” should be deleted for not having been mentioned in the Wage Order.

4. On Section 1 (after the 3rd paragraph), Rule V. EFFECT ON EXISTING WAGE STRUCTURE

The following paragraph should be added:

“Where the application of the COLA prescribed in this Wage Order results in Distortions in the wage structure within the establishment, the wage Distortions may be resolved using the following formula:

$$\frac{\text{Minimum Wage Under Wage Order No. RB III-11}}{\text{Present Salary}} \times \text{Amount of COLA granted under W.O. RB III-12} = \text{Amount of COLA due to distortion”}$$