

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-17

SETTING THE MINIMUM WAGE RATES IN REGION III

WHEREAS, Republic Act 6727 mandated the Regional Tripartite Wages and Productivity Board-Region III, hereinafter referred to as the Board, 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, in the exercise of its wage-fixing function, the Board "motu proprio" conducted sectoral wage consultation on July 19, 2012 and a regional public hearing on July 26, 2012 to gather inputs on the wage issue that will assist the Board in its review of the current minimum wage rates in the region;

WHEREAS, as a result of the studies made on the socio-economic conditions of the Region and that of the sectoral consultations, public hearing and deliberations conducted, the Board unanimously agreed to provide workers immediate measures taking into account the interest of both labor and management as well as the continued and sustained viability of business and industry;

WHEREAS, consistent with the government's policy of achieving higher level of productivity to preserve and generate jobs and to augment the income of workers, there is a need to build the capacity of business enterprises to be competitive through productivity improvement and the introduction of performance-based incentive programs;

WHEREAS, there is need to promote the implementation of the two-tiered wage system in the Region for the effective protection of the minimum wage earners by setting the floor wage and for the equitable distribution of the benefits from productivity growth by establishing performance-based incentive schemes acceptable to both labor and management;

WHEREAS, the Board is committed to simplify the wage structure for the effective and efficient administration and enforcement of wage standards 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 Board hereby issues this Wage Order:

Section 1. NEW MINIMUM WAGE RATES. Upon the effectivity of this Wage Order, the TWENTY FOUR PESOS (P24.00) Cost of Living Allowance

(COLA) under Wage Order No. RBIII-16 shall be integrated into the basic pay and the basic pay of all covered workers in the Region shall be increased by SIX PESOS (P6.00) per day, except those belonging to the establishments with total assets of less than P30 million who shall receive an additional SIX PESOS and FIFTY CENTAVOS (P6.50).

Furthermore, an additional of EIGHT PESOS (P8.00) in the basic pay for the Non-Plantation and the Retail/Service Establishments employing less than sixteen (16) workers in Aurora Province only is hereby provided.

The new minimum wage rates of covered workers in the private sector in Region III shall be as follows:

SECTOR	NEW MINIMUM WAGE RATES	
	BATAAN, BULACAN, NUEVA ECIJA, PAMPANGA, TARLAC ZAMBALES	AURORA
Non-Agriculture		285.00
Establishment with total assets of P30M or more	336.00	
Establishment with total assets of less than P30M	329.00	
Agriculture		
Plantation	306.00	270.00
Non-Plantation	290.00	258.00
Retail/Service		
With 16 or more workers	325.00	
With less than 16 workers	311.00	215.00

Section 2. COVERAGE. The new wage rate provided herein shall apply to all minimum wage earners/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 3. BASIS OF INCREASE. The wage increase prescribed under the Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4. 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 increase in this order per eight (8) hours a day, or a proportion thereof for working less than eight (8) hours.

Section 5. SPECIAL GROUP OF WORKERS. The minimum wage rate of apprentices and learners shall in no case be less than seventy-five

For 2011

percent (75%) of the prescribed minimum wage rate under Section 2 of 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 6. PRODUCTIVITY-BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes, such as, time and motion studies, good housekeeping, quality circles, labor-management cooperation, as well as implement 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 7. 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 2012-2013 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 2013-2014.

Private educational institutions which have not increased their tuition fees for the School Year 2012-2013 may defer compliance with the provisions of this Wage Order until School Year 2013-2014.

In any case, all private educational institutions shall implement the increase prescribed herein starting School Year 2013-2014.

Section 8. CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase 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 9. 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; and
2. Distressed Establishments, as defined in the NWPC Guidelines No. 02, Series of 2007.

Section 10. 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 11. 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 12. 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 CBA 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 13. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the increase 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:

$$\frac{\text{Minimum Wage Under Wage Order No. RBIII-16}}{\text{Present Salary}} \times \text{Amount of increase in WO RBIII-17} = \text{Amount of Increase due to distortion}$$

Section 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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, 2013 and every year thereafter in accordance with the form prescribed by the Commission.

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Section 20. 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 21. 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 22. 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 23. ADVISORY ON PERFORMANCE BASED INCENTIVE PAY. In line with the two-tiered wage system where the 1st tier is the mandatory wage adjustment prescribed in this Wage Order, within sixty (60) days from the issuance of NWPC Guidelines on the implementation of the two tiered wage system, the Board shall issue an advisory on the 2nd tier or the performance based incentive pay which shall serve as guidelines for private establishments on the range of productivity bonuses and incentives that an enterprise or industry may provide based on agreement between workers and management.

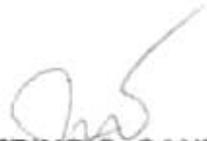
Section 24. EFFECTIVITY. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the Region.

APPROVED this 11th day of September 2012 at the City of San Fernando, Pampanga.


FLORDELIZA MARIA REYES-RAYEL
Board Member


RAUL C. REMODO
Board Member


EDGAR B. VENTURA
Board Member


SEVERINO C. SANTOS
Vice-Chairperson


BLESILA A. LANTAYONA
Vice-Chairperson


RAYMUNDO G. AGRAVANTE
Chairperson

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
REGION III – CENTRAL LUZON

RULES IMPLEMENTING WAGE ORDER NO. RBIII-17

Pursuant to Section 6, Rule IV of the NWPC Guidelines No. 01, Series of 2007, otherwise known as the Amended Rules of Procedure on Minimum Wage Fixing and Section 22 of Wage Order No. RBIII-17, 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-17"

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

- a) Order refers to Wage Order No. RBIII-17.
- b) Board refers to the Regional Tripartite Wages and Productivity Board in Region III (RTWPB – III).
- c) Commission refers to the National Wages and Productivity Commission (NWPC).
- d) Department refers to the Department of Labor and Employment (DOLE).
- e) Basic Wage refers to all remuneration of earnings paid by an employer to a worker for services rendered on normal working days and hours, but does not include cost of living allowances, profit sharing, investments, premium payments, 13th month pay and other monetary benefits, which are not considered as part or integrated into the regular salary of the workers on the date this Order became effective.
- 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) Establishment refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location.
- j) Retail Establishment refers to an entity principally engaged in the sale of goods to end-users for personal or household use. A retail establishment that regularly engages in wholesale activities loses its retail character.
- k) 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.
- l) Distressed Establishment refers to an establishment which meets the criteria enumerated in Section 3 (A) of the NWPC Guidelines No. 02, Series of 2007 or the Amended Rules on Exemption.
- m) 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.
- n) Barangay Micro Business Enterprise (BMBE) refers to any business entity or enterprise granted a Certificate of Authority under Republic Act No. 9178.
- o) Capital refers to paid-up capital at the end of the full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of a partnership or single proprietorship.
- p) Full Accounting Period refers to a period of twelve (12) months or one (1) year of business operations.
- q) Interim Period refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year).
- r) Total Assets refers to things of value owned by the business such as cash, machines, building and land which can be measured or expressed in money terms.
- s) Deficit refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, dividend distributions, prior period adjustments and other capital adjustments.

- t) Stock Corporation refers to one organized for profit and issues shares of stock to its members.
- u) 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.
- v) 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.
- w) Single Proprietorship refers to a business unit owned and controlled by only one person.
- x) 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.
- y) 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 AMOUNT OF INCREASE

Section 1. **MINIMUM WAGE INCREASE AND INTEGRATION OF THE COST OF LIVING ALLOWANCE.** Effective 11 October 2012, the TWENTY FOUR PESOS (P24.00) Cost of Living Allowance (COLA) under Wage Order No. RBIII-16 shall be integrated into the basic pay and the basic pay of all covered workers in the Region shall be increased by SIX PESOS (P6.00) per day, except those belonging to the establishments with total assets of less than P30 million who shall receive an additional SIX PESOS and FIFTY CENTAVOS (P6.50) per day.

Furthermore, an additional EIGHT PESOS (P8.00) per day in the basic pay for the Non-Plantation and the Retail/Service Establishments employing less than sixteen (16) workers in Aurora Province only is hereby provided.

Section 2. **NEW MINIMUM WAGE RATES.** The daily minimum wage rates in Region III effective October 11, 2012 shall be as follows:

SECTOR	NEW MINIMUM WAGE RATES	
	BATAAN, BULACAN, NUEVA ECIJA, PAMPANGA, TARLAC, ZAMBALES	AURORA
Non-Agriculture		285.00
Establishment with total assets of P30M or more	336.00	
Establishment with total assets of less than P30M	329.00	
Agriculture		
Plantation	306.00	270.00
Non-Plantation	290.00	258.00
Retail/Service		
With 16 or more workers	325.00	
With less than 16 workers	311.00	215.00

Section 3. **COVERAGE.** The new minimum wage rates provided in the Wage Order shall apply to all minimum wage earners/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 (BMBEs) with Certificates of Authority, pursuant to R.A. 9178.

Section 4. **BASIS OF INCREASE.** The wage increase prescribed under the 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 workers and employees covered in the increase in tuition fees for School Year 2012-2013 shall be credited as compliance with the Wage Order. In case of any shortfall, the employer shall pay the difference starting School Year 2013-2014.

Private educational institutions which have not increased their tuition fees for School Year 2012-2013 may defer compliance with the provisions of the Wage Order until the beginning of School Year 2013-2014.

In any case, all private educational institutions shall implement the new minimum wage rate prescribed in the Order starting School Year 2013-2014.

Section 6. **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 wage increase 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 wage increase, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 7. **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 wage increase 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.

Section 8. **WAGE FOR SPECIAL GROUPS OF WORKERS.** The minimum wage rate of apprentices and learners shall in no case be less than seventy-five percent (75%) of the prescribed minimum wage rate in the Order.

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

Section 9. **MOBILE AND BRANCH WORKERS.** The prescribed 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.

The prescribed 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 10. **TRANSFER OF PERSONNEL.** The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the prescribed minimum wage rates being enjoyed by the workers prior to such transfer. The workers transferred to the other Regions with higher minimum wage rates shall be entitled to the prescribed minimum wage rates applicable therein.

Section 11. **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 12. **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 the Wage Order;
2. Distressed Establishments, as defined in the NWPC Guidelines No. 02, Series of 2007; and

Section 2. **APPLICATION FOR EXEMPTION.** Within seventy-five (75) calendar days from date of publication of this Rules, an application for exemption shall be filed with the Board in three (3) legible copies by the owner or its duly authorized representative of an establishment, in person 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, District or Provincial 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 for at least five (5) working days before the filing of application for exemption.

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 FOR EXEMPTION.**

The following criteria shall be used to determine whether the applicant-establishment is qualified for exemption:

A. Distressed Establishments

1. For Corporations/Cooperatives

a. Full Exemption

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

b. Partial Exemption:

- b.1. When the deficit, as defined in Section 2(s), Rule I as of the last full accounting period immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the paid-up capital for the same period.

c. Conditional Exemption

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

2. For Single Proprietorships/ Partnerships

a. Full Exemption

- a.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review; or
- a.2. When an establishment registers capital deficiency i.e. negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.

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b. Partial Exemption

b.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the total invested capital at the beginning of the period under review.

c. Conditional Exemption

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

3. For Non-Stock, Non-profit Organizations

a. Full Exemption

a.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period; or

a.2. When the establishment registers a 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.

b. Partial Exemption:

b.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but not more than 20% of the fund balance/members' contribution at the beginning of the period.

c. Conditional Exemption:

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

4. For Banks and Quasi-banks

a. Under receivership/liquidation

Exemption may be granted to a bank or quasi-bank under receivership or liquidation when there is a certification from the Bangko Sentral ng Pilipinas (BSP) that it is under receivership or liquidation as provided in

Section 30 of RA 7653, otherwise known as the New Central Bank Act.

b. Under controllership/conservatorship

A bank or quasi-bank under controllership / conservatorship may apply for exemption as a distressed establishment under Section 3.A of this Rules.

5. Establishments Under Corporate Rehabilitation

Exemption may be granted to corporations, partnerships and associations under corporate rehabilitation when there is an order from a court of competent jurisdiction that it is under rehabilitation pursuant to the Rules of Procedure on Corporate Rehabilitation (2008).

B. Retail/Service Establishments

1. It is engaged in the retail sale of goods and/or services to end users for personal or household use.
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.

Section 4. **DOCUMENTS REQUIRED.**

The following supporting documents shall be submitted together with the application:

For all categories of Exemption

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 conspicuous places in the establishment for at least 5 working days before filing of petition for exemption.

All applicants for exemption shall submit a proof of posting and proof of compliance from the previous wage order (i.e. payroll duly signed by the workers and/or inspection results issued by the DOLE Regional Office).

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A. For Distressed Establishments

1. For corporations, cooperative, single proprietorships, partnerships, non-stock, non-profit organizations.

a. Full or Partial Exemption

a.1. Affidavit from the employer stating the principal economic activity, number of workers employed in the establishment and union (if any).

a.2. 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 agency.

b. Conditional Exemption

b.1. Affidavit from the employer stating the principal economic activity, number of workers employed in the establishment and union (if any).

b.2. Audited financial statement (together with the Auditor's opinion and the notes thereto) for the last full accounting period and interim quarterly financial statement/s for the period immediately preceding the effectivity of the Order.

b.3. To confirm the grant of conditional exemption, audited financial statements for the last full accounting period, stamped received by the appropriate government agency to be submitted within thirty (30) days from the lapse of the one (1) year exemption period.

2. For Banks and Quasi-banks

a.1. Affidavit from the employer stating the principal economic activity, number of workers employed in the establishment and union (if any);

a.2. Certification from the Bangko Sentral ng Pilipinas (BSP) that it is under receivership/liquidation.

3. For Establishments Under Corporate Rehabilitation

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

B. For Retail/Service Establishments:

1. Affidavit from the employer stating the following:
 - a. principal economic activity;
 - b. it is regularly employing not more than ten (10) workers for at least six months in any calendar year, and the amount of total assets; and
 - c. it is a retail/service establishment
2. Business permit for the current year from the appropriate government agencies.

The Board may require the submission of other pertinent documents to support the application for exemption (e.g. proof of posting, proof of compliance from the previous wage order).

Section 5. **EXTENT AND DURATION OF EXEMPTION.**

- A. 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 11 October 2012, in accordance with the provisions of Section 5, NWPC Guidelines No. 02, Series of 2007.
- B. Partial exemption of 50% from effectivity of the Order with respect to the amount or period of exemption shall be granted only in the case of distressed establishments under Section 3.A, Rule III of this Rules.
- C. Conditional exemption of one (1) year from effectivity of the Order shall be granted only in the case of distressed establishments under Section 3A, NWPC Guidelines No. 02, series of 2007. The conditional exemption shall be confirmed as follows:
 1. In case of corporations, when the deficit as defined in this Rules, as of the last full accounting period amounts to 20% or more of the paid-up capital for the same period;
 2. In case of single Proprietorships and Partnerships, when the net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review;
 3. For Non-Stock, Non-Profit Organizations, when the net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period.

In case of absence of such actual losses, the company shall pay its workers the wage increase due them under the Order, retroactive to the effectivity of the Order.

Section 6. **ADOPTION OF PRODUCTIVITY IMPROVEMENT PROGRAMS.** Establishments granted exemption are required to adopt productivity improvement initiatives or schemes to improve business viability. The Commission and the Board shall provide technical assistance in the development of a productivity improvement program in the establishment.

Section 7. **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 8. **EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION.** In the event that the application for exemption is not approved, affected workers shall be paid the prescribed wage increase as provided for in the order plus simple interest of one percent (1%) per month retroactive to the effectivity of the Wage Order.

Section 9. **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 10. **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 ninety (90) days prior to the effectivity of the 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 what is provided in the Wage Order, the employer shall pay the difference.

Such increases shall not include CBA 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.

**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 following advisory formula may be used to correct wage distortion:

Minimum Wage Under <u>Wage Order No. RBIII-16</u> Present Salary	X	Amount of increase in WO RBIII-17	=	Amount of increase due to distortion
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The formula is neither compulsory nor mandatory in nature and any other agreement the parties may adopt shall take precedence to this formula.

For the union

A. ...

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The pendency of a dispute arising from wage distortion shall not in any way delay the applicability of the wage increase 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 and other performance incentive 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 NEGOTIATE.** The Wage Order shall not be construed to prevent workers in particular firms or enterprises of industries from negotiating 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, 2013 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.

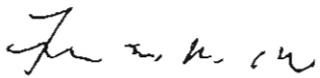
Section 11. **ADVISORY ON PERFORMANCE BASED INCENTIVE PAY.** In line with the two-tiered wage system where the 1st tier is the mandatory wage adjustment prescribed in this Wage Order, within sixty (60) days from the issuance of NWPC Guidelines on the implementation of the two tiered wage system, the Board shall issue an advisory on the 2nd tier or the performance based incentive pay which shall serve as guidelines for private establishments on the range of productivity bonuses and incentives that an enterprise or industry may provide based on agreement between workers and management.

For n. n. n.

G. L...

Section 12. **EFFECTIVITY.** This Rules shall take effect on October 11, 2012.

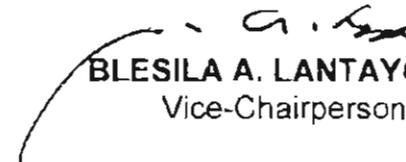
APPROVED this 25th day of September 2012, City of San Fernando, Pampanga.

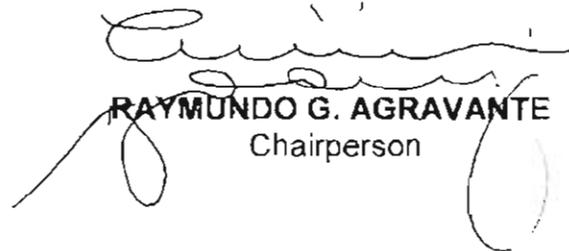

FLORDELIZA MARIA REYES-RAYEL
Board Member


RAUL C. REMODO
Board Member


EDGAR B. VENTURA
Board Member


SEVERINO C. SANTOS
Vice-Chairperson


BLESILA A. LANTAYONA
Vice-Chairperson


RAYMUNDO G. AGRAVANTE
Chairperson

APPROVED this 27 th day of November 2012


ROSALINDA DIMAPILIS- BALDOZ
Secretary, Department of Labor and Employment
