

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-20

SETTING NEW MINIMUM WAGE RATES IN REGION III

WHEREAS, Republic Act 6727 mandates the Regional Tripartite Wages and Productivity Boards to determine and fix the minimum wage rates applicable in their region, provinces and industries therein and to issue the corresponding Wage Orders, subject to guidelines issued by the National Wages and Productivity Commission;

WHEREAS, pursuant to Sec. 3 (a) of NWPC Guidelines No. 01, Series of 2007, ("Amended Rules of Procedure on Minimum Wage Fixing") and NWPC Guidelines No. 01, Series of 2015 ("Guidelines in the Conduct of Public Consultations"), the Regional Tripartite Wages and Productivity Board, Region III, hereinafter referred to as the Board, initiated *motu proprio* an inquiry to determine whether a new wage order should be issued considering the prevailing socio-economic conditions in the region and provinces;

WHEREAS, the Board conducted public consultations in the following provinces: Bulacan and Pampanga (February 2, 2017); Nueva Ecija (February 23, 2017); Aurora (February 24, 2017); Tarlac (February 28, 2017); Bataan and Zambales (March 2, 2017). A public hearing was held in Pampanga on March 10, 2017;

WHEREAS, after careful review by the Board of the prevailing socio-economic conditions in the region and provinces, together with the results of its public consultations and public hearing, the Board acknowledged the need to help workers cope with rising cost of living by providing them with immediate relief without impairing the viability of business and industries therein and taking into account the need for investment, competitiveness of the region and job preservation.

WHEREAS, the Board deemed it best to increase the minimum wage at a reasonable and equitable level in light of the regional poverty threshold level vis-à-vis average wage, along the need to promote performance-based incentive schemes under the Two-Tiered Wage System.

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 INCREASE. Upon the effectivity of this Order, the basic pay of all private sector workers in the Region shall be adjusted by SIXTEEN PESOS (P16.00) per day in all provinces.

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

SECTOR	MINIMUM WAGE					
	Provinces of Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac, Zambales			Province of Aurora		
	MW under W.O. # RBIII-19	Amount of Increase upon effectivity of Wage Order	New Minimum Wage	MW under W.O. # RBIII-19	Amount of Increase upon effectivity of Wage Order	New Minimum Wage
NON-AGRICULTURE				313	16.00	329
Establishment with total assets of P30M or more	364	16.00	380			
Establishment with total assets of less than P30M	357	16.00	373			
AGRICULTURE						
Plantation	334	16.00	350	298	16.00	314
Non-Plantation	316	16.00	334	286	16.00	302
RETAIL/SERVICE						
With 16 or more workers	353	16.00	369			
With less than 16 workers	339	16.00	355	248	16.00	264

Section 2. COVERAGE. The new wage rates provided herein shall apply to all workers and employees receiving the minimum wage in the private sector in the region, regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid.

This Wage Order shall not cover household or domestic helpers ^{under} 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 this 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 percent (75%) of the prescribed minimum wage rate under Section 1 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.

All qualified handicapped workers shall receive the full amount of the new wage rates prescribed pursuant to R.A. 7277, otherwise known as the Magna Carta for Disabled Person.

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 2017-2018 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 2018-2019.

Private educational institutions which have not increased their tuition fees for the School Year 2017-2018 may defer compliance with the provisions of this Wage Order until School Year 2018-2019.

In any case, all private educational institutions shall implement the increase prescribed herein starting School Year 2018-2019.

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 effectivity of this Wage Order;
2. Distressed Establishments, as defined in the NWPC Guidelines No. 02, Series of 2007;
3. Establishments adversely affected by calamities such as natural and/or human-induced disasters in accordance with NWPC Resolution No. 01, Series of 2014.

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. 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.

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) having jurisdiction over the workplace and shall be subject to the mandatory thirty (30) conciliation and mediation process under Single Entry Approach (SEna). However, if settlement fails, the case becomes subject of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended.

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

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itemized listing of their labor component to the Board not later than January 31, 2018 and every year thereafter in accordance with the form prescribed by the Commission.

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.

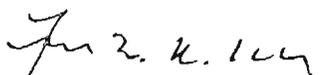
Section 21. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

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. Pursuant to the Two-Tiered Wage System, Advisory No. RTWPBIII-01 has been issued to guide establishments in the formulation, adoption and implementation of productivity programs and performance and productivity-based incentive schemes that an enterprise may provide based on agreement between workers and management.

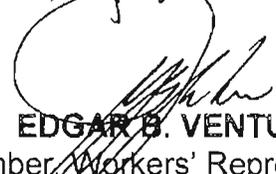
Section 24. EFFECTIVITY. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation.

APPROVED this 28th day of March 2017 at the City of San Fernando, Pampanga.

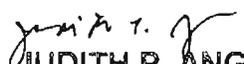

FLORDELIZA MARIA REYES-RAYEL
Member, Employers' Representative

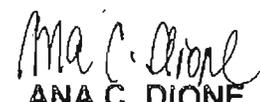

MARCO D. NEPOMUCENO
Member, Employers' Representative


RAUL C. REMODO
Member, Workers' Representative


EDGAR B. VENTURA
Member, Workers' Representative


SEVERINO C. SANTOS
NEDA Regional Director
Vice-Chairperson


JUDITH P. ANGELES
DTI Regional Director
Vice-Chairperson


ANA C. DIONE
DOLE Regional Director
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-20

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-19, 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-20"

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

- a) Order refers to Wage Order No. RBIII-20.
- 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, Tarlac and Mabalacat.
- 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
- h) Farming operations. This does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products.

- i) 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".
- j) Establishment refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location. For purposes of determining eligibility for exemption, establishments under the same owner/s but separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.
- k) 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.
- 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 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.
- n) Wage Distortion refers to a situation where an increase in the prescribed wage rates results in either of the following: (1) elimination of the quantitative differences in the rates of wages or salaries (2) severe contraction of intentional quantitative differences 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.
- o) Barangay Micro Business Enterprise (BMBE) refers to any business entity or enterprise granted a Certificate of Authority under Republic Act No. 9178.
- p) 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.
- q) Full Accounting Period refers to a period of twelve (12) months or one (1) year of business operations.
- r) Interim Period refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year).
- s) 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.
- t) 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.
- u) Stock Corporation refers to one organized for profit and issues shares of stock to its members.

- v) 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.
- w) 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.
- x) Single Proprietorship refers to a business unit owned and controlled by only one person.
- y) Cooperative refers to a duly registered association of persons who voluntarily join together to form a business establishment which they themselves own, control and patronize and which may fall under any of the following types: credit, consumers, producers, marketing, service or multi-purpose.
- z) Quasi-banks refers to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.
- aa) Stockholder's Equity refers to the residual interest in the assets of an entity that remains after deducting its liabilities. It is total assets minus total liabilities. It is the same as equity and net worth.
- bb) Net Loss refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues.
- cc) Financial Statement refers to written report which quantitatively describes the financial health of a company. This includes the following: balance sheet, income statement, statement of changes in equity, cash flow statement and notes to financial statement.
- dd) Conservatorship refers to a remedy resorted to by the monetary board in case a bank or quasi-bank is in a state of continuing inability or unwillingness to maintain condition of liquidity deemed adequate to protect the interests of the depositors and creditors. A conservator is appointed to manage the establishment in order to restore its viability.
- ee) Under Corporate Rehabilitation refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction.
- ff) Receivership/liquidation – refers to a remedy resorted by the Monetary Board in case a bank or quasi-bank is (a) unable to pay its liabilities as they become due in the ordinary course of business; (b) has insufficient realizable assets as determined by the Bangko Sentral ng Pilipinas to meet its liabilities; (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has willfully violated a cease and desist order that has become final involving acts or transactions which amount to fraud or dissipation of the assets of the institution
- gg) State of Calamity refers to a condition involving mass casualty and/or major damage to property, disruption of means of livelihood, roads and normal way of life of people in the affected areas as a result of the occurrence of a natural or human-induced hazard (Section 3, RA 10121, Philippine Disaster Risk Reduction and Management Act of 2010).

- hh) Hazard refers to a dangerous phenomenon, substance human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood or services, social and economic disruption, or environmental damage; any potential threat to public safety and/or public health; any phenomenon which is potential to cause disruption or damage to people, their property, their services or their environment, i.e., their communities. The four classes of hazards are natural, technological, biological and societal hazards. (National Disaster Risk Reduction and Management Council NDRRMC).
- ii) Disaster refers to a serious disruption of the functioning of a community or a society involving widespread human, material economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources; an actual threat to public health and safety where the local government and emergency services are unable to meet the immediate needs of the community; an event in which the local emergency management measures are insufficient to cope with a hazard, whether due to lack of time, capacity or resources, resulting in unacceptable level of damage or number of casualties. (NDRRMC).

RULE II AMOUNT OF INCREASE

Section 1. AMOUNT OF INCREASE. Upon the effectivity of this Order, the basic pay of all private sector workers in the Region shall be adjusted by SIXTEEN PESOS (P16.00) per day in all provinces.

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

SECTOR	MINIMUM WAGE					
	Provinces of Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac, Zambales			Province of Aurora		
	MW under W.O. # RBIII-19	Amount of Increase upon effectivity of Wage Order	New Minimum Wage	MW under W.O. # RBIII-19	Amount of Increase upon effectivity of Wage Order	New Minimum Wage
NON-AGRICULTURE				313	16.00	329
Establishment with total assets of P30 M or more	364	16.00	380			
Establishment with total assets of less than P30 M	357	16.00	373			
AGRICULTURE						
Plantation	334	16.00	350	298	16.00	314
Non-Plantation	318	16.00	334	286	16.00	302
RETAIL/SERVICE						
With 16 or more workers	353	16.00	369			
With less than 16 workers	339	16.00	355	248	16.00	264

Section 2. 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 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. **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 2015-2016 shall be credited as compliance with the Wage Order. In case of any shortfall, the employer shall pay the difference starting School Year 2017-2018.

Private educational institutions which have not increased their tuition fees for School Year 2015-2016 may defer compliance with the provisions of the Wage Order until the beginning of School Year 2017-2018.

In any case, all private educational institutions shall implement the new minimum wage rate prescribed in the Order starting School Year 2017-2018.

Section 5. **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 6. **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.

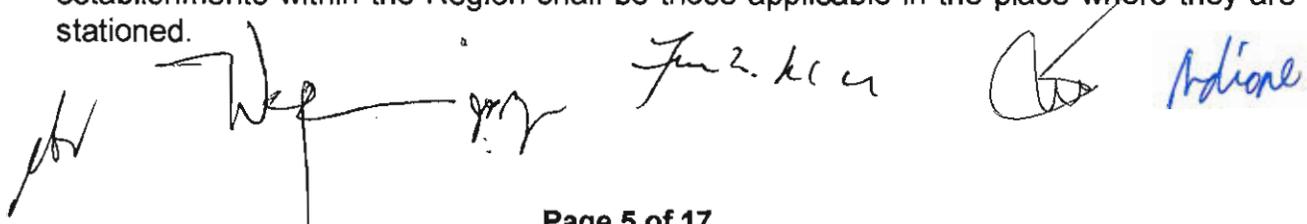
Section 7. **WAGE FOR SPECIAL GROUPS OF WORKERS.** The minimum wage rate of apprentices and learners shall in no case be less than seventy-five percent (75%) of the prescribed minimum wage rate in the Order.

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

All qualified handicapped workers shall receive the full amount of the new wage rates prescribed herein pursuant to Republic Act 7277, otherwise known as the Magna Carta for Disabled Person.

Section 8. **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.

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Section 9. **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 10. **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 11. **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.

Section 12. **SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY RATES.** Without prejudice to existing company practices, agreements, or policies, the following formula may be used as guides in determining equivalent monthly rates:

a. For those who are required to work everyday including Sundays or rest days, special days and regular holidays:

$$\text{Equivalent Monthly Rates (EMR)} = \frac{\text{Applicable Daily Rate (ADR)} \times 393.50 \text{ days}}{12 \text{ months}}$$

Where 393.50 days:

- 298 days - Ordinary working days
- 24 days - 12 regular holidays X 200%
- 67.60 days - 52 rest days X 130%
- 3.90 days - 3 special days X 130%
- 393.50 days - Total equivalent number of days

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

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

Where 365 days:

- 298 days - Ordinary working days
- 52 days - Sundays/Rest days
- 12 days - Regular Holidays
- 3 days - Special Days
- 365 days - Total equivalents number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 313 \text{ days}}{12 \text{ months}}$$

Where 313 days:

- 298 days - Ordinary working days
- 12 days - Regular Holidays
- 3 days - Special days
- 313 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 261 \text{ days}}{12 \text{ months}}$$

Where 261 days:

- 246 days - Ordinary working days
- 12 days - Regular Holidays
- 3 days - Special days
- 261 days - Total equivalent number of days

RULE III EXEMPTIONS

Section 1. **WHO MAY BE EXEMPTED.** The following establishments may be exempted from the payment of the prescribed wage increase 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 effectivity of the Wage Order;
2. Distressed Establishments, as defined in the NWPC Guidelines No. 02, Series of 2007;
3. Establishments adversely affected by natural calamities such as natural and/or human-induced disasters in accordance with NWPC Resolution No.01, Series of 2014.

Section 2. **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

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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 percent 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 percent but less than 20 percent 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 percent 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 percent 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.

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 percent but less than 20 percent 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 percent 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 percent or more of the fund balance/members' contribution at the beginning of the period; or

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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 percent but not more than 20 percent 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 percent 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.

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.

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.

C. Establishment Adversely Affected by Calamities, such as Natural and Human Induced Disasters

1. The establishment must be located in an area declared by a competent authority as under a state of calamity.

2. Calamity must have occurred within six (6) months prior to the effectivity of this Order. However, if based on the assessment by a competent authority, the damage to properties is at least 50 percent and the period of recovery will exceed one (1) year, the 6-months period may be extended to one (1) year.

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3. Losses suffered by the establishments as a result of the calamity that exceed the insurance coverage should amount to 20 percent or more of the stockholders' equity as of the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnerships and single proprietorships and fund balance/members' contribution in the case of non-stock non-profit organizations.
4. Only losses or damaged to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.
5. Where necessary, the Board or its duly authorized representatives shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

Section 3. 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).

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).

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.

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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.

C. For Establishments Adversely Affected by Natural Calamities

1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
 - a. Date and type of calamity;
 - b. Amount of losses/damages suffered as a direct result of the calamity;
 - c. List of properties damaged/lost together with the estimated valuation; and
 - d. For properties that are not insured, a statement that the same are not covered by insurance.
2. Copies of the Insurance Policy Contracts covering the Properties damaged, if any.

3. Adjuster's report for insured properties
4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped receive by the appropriate government agency

In case of severe damage to properties caused by the calamity, a Certification by the Barangay and pictures of the damaged property/ies may be submitted in lieu of the audited financial statements.

Applicants shall also submit a certification that a general assembly to explain to its workers and employees its intent to file an application for exemption, has been conducted prior to the filing of the application and an undertaking to conduct another general assembly informing its workers and employees of the decision of the Board on its application.

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

Section 4. 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 the effectivity of the wage order, in accordance with the provisions of Section 5, NWPC Guidelines No. 02, Series of 2007.
- B. Partial exemption of 50 percent 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 percent 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 percent 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 5. 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 6. 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 7. 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 8. APPLICATION FOR PROJECTS/BRANCHES/DIVISIONS. Where the exemption being sought is for a particular project/branch/division not separately registered and licensed, the consolidated audited financial statements of the establishment shall be used as basis for determining its distressed condition.

Section 9. DISTRESSED PRINCIPAL. Exemption granted to a distressed principal shall not extend to its contractor in case of contract(s) for projects, security, janitorial and/or similar services with respect to the employees of the latter assigned to the former.

Section 10. PROCEDURES ON EXEMPTION.

A. For Filing of Application

1. An application, in three (3) legible copies may be filed with the Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail.

The date of mailing shall be deemed as the date of filing.

Applications for exemption filed with the DOLE regional, district or provincial offices are considered filed with the Board.

2. Applications for all categories shall be filed not later than 75 days from publication of the approved implementing rules of the Order, provided that all the required documents in support of the application must be filed within the said 75-day filing period and that no further extension of filing and submission of required documents shall be allowed.

In case of applications of establishments adversely affected by calamities where the calamity occurred after the expiration of the period for the filing of an application for exemption, the Board may re-open the same.

The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 4 of this Guidelines.

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B. For Filing of Opposition

Any worker or, if unionized, the union in the applicant establishment, may file with the Board within fifteen (15) days from receipt of the notice of the filing of the application, an opposition to the application for exemption stating the reasons why the same should not be approved, furnishing the applicant a copy thereof. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

C. For Filing a Motion for Reconsideration

The aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.

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

D. For Filing of Appeal to the Commission

1. 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 date of receipt of the decision.

The appeal, with proof of service to the other party, shall be accompanied with a memorandum of appeal which shall state the date appellant received the decision, the grounds relied upon and the arguments in support thereof.

The appeal shall not be deemed perfected if it is filed with any office or entity other than the Board.

2. Grounds for Appeal – An appeal may be filed on the following grounds:
 - a. Non-conformity with the prescribed guidelines and/or procedures on exemption;
 - b. Prima facie evidence of grave abuse of discretion on the part of the Board; or
 - c. Questions of law.
3. Opposition – The appellee may file with the Board his reply or opposition to the appeal within ten (10) days from receipt of the appeal. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.
4. Transmittal of records – Within five (5) days upon receipt of the reply or opposition of the appellee or after the expiration of the period to file the same, the entire records of the case which shall be consecutively numbered, shall be transmitted by the Board to the Commission.

Welf *July 2, 12* *Adrian*

**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:

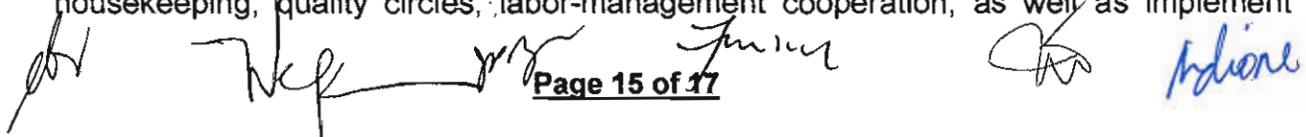
$$\frac{\text{Minimum Wage under Wage Order No. RBIII-19}}{\text{Present Salary}} \times \text{Amount of increase in WO RBIII-20} = \text{Amount of increase due to distortion}$$

The formula is neither compulsory nor mandatory in nature and any other agreement the parties may adopt shall take precedence to this formula.

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



gain sharing and other performance incentive programs. Accordingly, the Regional Board shall provide the necessary studies and technical assistance to the enterprise.

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 subject to the mandatory thirty (30) day conciliation and mediation process under Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Articles 128 and 129 of the Labor Code as amended."

Section 3. **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 4. **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 or 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 5. **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 6. **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 7. **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, 2016 and every year thereafter in accordance with the form prescribed by the Commission.

Section 8. **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.

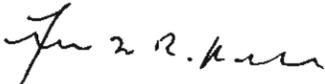
Section 9. **SEPARABILITY CLAUSE.** If any provision or part of the Order and this Rules, or the application thereof to any person or circumstances is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such

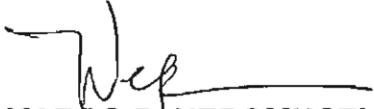
provision or part thereof to other persons or circumstances shall not be affected thereby.

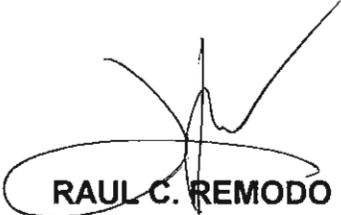
Section 10. **ADVISORY ON PERFORMANCE BASED INCENTIVE PAY** Advisory No. RTWPB III-01, Series of 2013 dated December 2, 2013 issued by the Board on the performance-based incentive pay shall serve as guidelines for private establishment on the range of productivity incentive that an enterprise or industry may provide based on agreement between workers and management.

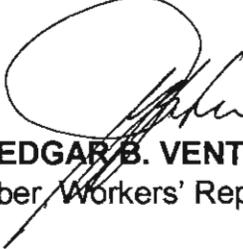
Section 11. **EFFECTIVITY.** This Rules shall take effect upon the effectivity of the Wage Order.

APPROVED this 28th day of March 2017, City of San Fernando, Pampanga.

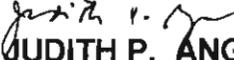

FLORDELIZA MARIA REYES-RAYEL
Member, Employers' Representative


MARCO D. NEPOMUCENO
Member, Employers' Representative


RAUL C. REMODO
Member, Workers' Representative

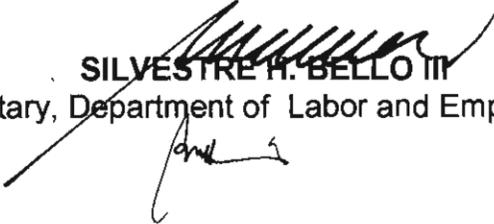

EDGAR B. VENTURA
Member, Workers' Representative


SEVERINO C. SANTOS
NEDA Regional Director
Vice-Chairperson


JUDITH P. ANGELES
DTI Regional Director
Vice-Chairperson


ANA C. DIONE
DOLE Regional Director
Chairperson

APPROVED this 9th day of MAY 2017.


SILVESTRE H. BELLO III
Secretary, Department of Labor and Employment