

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-05
PROVIDING FOR NEW MINIMUM WAGE RATES

WHEREAS, Mitsumi Philippines Workers' Union (ALU-TUCP), the Federation of Free Workers (FFW), Samahan ng Manggagawa sa Console Farms Corporation (SAMACOFA-ANGLO-KMU) and Nagkakaisang Lakas ng Manggagawa sa Makabali Hospital - Nagkakaisang Lakas ng Manggagawa (NLM) - Katipunan filed with the Board on November 15, 1996, November 20, 1997 and January 27, 1997 petitions for wage adjustment;

WHEREAS, the petitioners claimed for restoration of the purchasing power of the workers at its 1989 level;

WHEREAS, due to skills and/or professional requirement in the industry as was articulated during the public hearing, hospital/medical workers are reclassified from that of workers in the retail/service industry provided for under Wage Order No. RBIII-04;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act 6727, known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Region III hereby issues this Wage Order.

Section 1. DAILY MINIMUM WAGE RATES. Upon the effectivity of this Order, the daily minimum wage rates applicable to workers and employees in the private sector in Region III shall be as follows:

- A. Upon the effectivity of this Order
 1. For Non-Agricultural Workers in BULACAN:
 - 1.a P157.00 per day for those employed in establishment with 30 or more workers or with total assets of P30 million;
 - 1.b P150.00 per day for those employed in establishments with less than 30 workers or with total assets of less than P30 million;
 2. For Non-Agricultural Workers in Other Provinces
 - 2.a P153.00 per day for those employed in establishment with 30 or more workers or with total assets of P30 million or more;
 - 2.b P146.00 per day for those employed in establishment with less than 30 workers or with total assets of less than P30 Million;
 3. For Hospital Workers in ALL Provinces:
 - 3.a P143.00 per day for those employed in hospitals with 16 or more employees
 - 3.b P130.00 per day for those employed in hospitals with less than 16 employees
 4. For Agricultural Workers in ALL Provinces
 - 4.a P125.00 per day for plantation workers;
 - 4.b P110.00 per day for non-plantation workers;
 5. For Retail/Service Workers in ALL Provinces
 - 5.a P143.00 per day for those employed in establishment with 16 or more employees
 - 5.b P130.00 per day for those employed in establishment with less than 16 employees
 6. For Cottage/handicraft Workers in All Provinces P110.00 per day

B. Effective June 1, 1997:

1. For Non-Agricultural Workers in BULACAN:
 - 1.a P163.50 per day for those employed in establishment with 30 or more workers or with total assets of P30 million;
 - 1.b P156.50 per day for those employed in establishments with less than 30 workers or with total assets of less than P30 million;
2. For Non-Agricultural Workers in Other Provinces
 - 2.a P159.50 per day for those employed in establishment with 30 or more workers or with total assets of P30 million or more;
 - 2.b P152.50 per day for those employed in establishment with less than 30 workers or with total assets of less than P30 Million;
3. For Hospital Workers in ALL Provinces:
 - 3.a P151.50 per day for those employed in hospitals with 16 or more employees
 - 3.b P137.50 per day for those employed in hospitals with less than 16 employees
4. For Agricultural Workers in ALL Provinces
 - 4.a P131.50 per day for plantation workers;
 - 4.b P116.50 per day for non-plantation workers;
5. For Retail/Service Workers in ALL Provinces
 - 5.a P149.50 per day for those employed in establishment with 16 or more employees
 - 5.b P136.50 per day for those employed in establishment with less than 16 employees
6. For Cottage/handicraft Workers in ALL Provinces P116.50

Section 2. PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of the workers and employees covered in the increase of tuition fees for School Year 1995-1996 shall be credited as compliance with the minimum wage prescribed herein. Where the share of the workers and employees is less than the minimum wage provided herein, the employer shall pay the difference starting School Year 1996-1997.

Section 3. EXEMPTIONS. Exempted from the provision of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

The following establishments may also be exempted from the Wage Order upon application with and as determined by the Board, in accordance with the applicable rules and regulations to be issued by the Board and pursuant to Section 3A of NWPC Guidelines No. 01, Series of 1996 (Rules on Exemption).

1. Retail/service establishments regularly employing not more than ten (10) workers
2. Distressed firms
3. New Business Enterprises

Whenever an applications for exemption has been duly filed with the Regional Board, action on any complaint for alleged non-compliance with this Wage Order shall be deferred pending its resolution.

Section 4. EXTENT AND DURATION OF EXEMPTION. The Board has the discretion to grant full or partial exemption to such employer which shall not exceed one (1) year from the effectivity of this Wage Order.

Section 5. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION. In the event that applications for exemption are not granted, affected workers and employees shall

receive the appropriate wages due them as provided for in this Order plus interest of one percent (1%) per month retroactive to the effectivity of this Order.

Section 6. SERVICE CONTRACTORS AND OTHER CONTRACTORS. In the case of contractual workers for construction projects and for security, janitorial and similar services, the prescribed minimum wage for workers and employees under this category shall be paid by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed minimum wage, the construction/service contractors and the principal or client shall be jointly and severally liable.

Section 7. WORKERS PAID BY RESULT. All workers paid by result including those who are paid by piecework, "takay", "pakyaw" or task basis, shall be entitled to receive the prescribed minimum wage increase per eight (8) hours a day for a wage proportional to the equivalent of the minimum wage for a regular eight (8) hours working day.

Section 8. SPECIAL GROUP OF WORKERS. Learners and apprentices shall be paid wages not less than seventy-five percent (75%) of the minimum wage rates under this Order.

All valid learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically amended as far as their wage clauses are concerned.

Section 9. MOBILE AND BRANCH WORKERS. The minimum wage rates of the workers working in branches or agencies of establishments in or outside the Region shall be those applicable in the place where they are stationed.

Section 10. TRANSFER OF PERSONNEL. The transfer of workers to areas outside the Region with lower minimum wage rate shall not be valid ground for the reduction of the wage rates being enjoyed by the worker prior to such transfer. The worker transferred to a Region with higher rates will be entitled to the minimum wage rates applicable therein.

Section 11. CREDITING. Wage increases granted by an employer within 90 days prior to the effectivity and 90 days after the effectivity of this Order shall be credited as compliance with the minimum wage prescribed herein.

Where such increases are less than the prescribed adjustment, the employer shall pay the difference. Such increase shall not include merit wage increases.

Section 12. WAGE DISTORTION. The employers and workers shall correct the wage distortion arising from a severe contraction of quantitative differences in salary rates between and among employees and workers. This shall be settled through employers initiative, grievance procedure, voluntary arbitration or through the National Labor Relations Commission, whichever is applicable.

Section 13. REPORTORIAL REQUIREMENTS. All employers, whether covered or exempted, shall submit a duly prescribed report on their compliance with this Order on or before January 31, 1998, and every year thereafter.

Section 14. IMPLEMENTING RULES. The Board shall prepare the necessary rules and regulations to implement this Order, subject to the approval of the Secretary of Labor and Employment.

Section 15. APPLICABILITY. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Order shall be construed to reduce any existing wage rate, allowance or other benefits under existing laws, decrees, issuances, and executive orders and/or under contract or agreement between workers and employers.

Section 14. PENALTIES. Pursuant to the provision of Section 12 of Republic Act 6727, as amended by Republic Act 8188, any person, corporation, trust firm, and executiveip, associations or entity which refuses or fails to pay the prescribed increase in the Order shall be punished by a fine not exceeding twenty-five thousand pesos (P25,000.00) or 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 courts. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposable under the Act.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manage, managing director or partner.

Section 17. EFFECTIIVTY. This Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation.

Approved. This 18th day of March, 1997 at San Fernando, Pampanga, Philippines.

SABINO C. MENDIOLA
Workers' Representative

(SGD) JOSE T. DE LEON
Employers' Representative

RAUL C. REMODO
Workers' Representative

(SGD) JONES B. ALABANZA
Employers' Representative

(SGD) REMIGIO A. MERCADO
Vice-Chairman

(SGD) OLIVER B. BUTALID
Vice-Chairman

(SGD) ANA C.DIONE
Chairperson

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD-REGION III
San Fernando, Pampanga

RULES IMPLEMENTING WAGE ORDER NO. RBIII-05

Pursuant to the authority vested in the Regional Tripartite Wages and Productivity Board No. 3 under Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing, and Section 12 of Wage Order No. RBIII-05 the following rules are hereby issued for strict compliance by all concerned:

CHAPTER I – DEFINITION OF TERMS

DEFINITION OF TERMS. As used in this Rules.

- a) Order refers to Wage Order No. RBIII-05.
- b) Board refers to the Regional Tripartite Wages and Productivity Board in Region III.
- c) Commission refers to the National Wages and Productivity Commission.
- d) Department refers to the Department of Labor and Employment.
- e) Secretary refers to the Secretary of Labor and Employment.
- f) Region III covers the provinces of Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac and Zambales and the cities of Angeles, Cabanatuan, Olongapo, Palayan and San Jose.
- g) Minimum Wage refers to the lowest rate fixed by law that an employer can pay his workers.
- h) 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;
- 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 Enterprises”.
- j) Cottage/Handicraft Establishment is one engaged in an economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship and whose capitalization does not exceed P1.5 million (in conformity with SMED Resolution No. 3, Series of 1995) regardless of previous registration with the defunct NACIDA;
- k) Household or Domestic Helpers shall mean workers who administer strictly to the personal needs of their employer. This includes family drivers;
- l) 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.

- m) Retail Establishment is one principally engaged in the sale of goods to end-users for personal or household use;
- n) Service Establishment is one principally engaged in the sale of service to individuals for their own and household use and generally recognized as such;
- o) Distressed Employer refers to employers/establishments which meet the criteria enumerated in Sec. 3(3) of the NWPC Revised Guidelines on Exemption;
- p) Wage Distortion refers to a situation where an increase in the prescribed wage rates results in the elimination or severe contraction of intentional quantitative difference in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service or other logical bases of differentiation;
- q) Capitalization refers to paid-up capital, in the case of a corporation, and total invested capital, in the case of a partnership or single proprietorship;
- r) Full Accounting Period refers to a period of twelve (12) months or one year business operation;
- s) Total Assets refers to all kinds of properties, real or personal, owned by the firm and used for the conduct of its business;
- 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) New Business Enterprises refers to establishments including non-profit institutions, established within two (2) years from the effectivity of the Order based on the latest registration with the appropriate government agency, such as SEC, DTI, and Mayor's office.
- v) Start of Business Operations refers to the actual date of business operations, as certified by the appropriate government agency (e.g. Certifications issued by authorities in Special Economic Zones). In case no such agency/ies will certify on the actual date of operation, the start of business operation shall refer to the registration with the last appropriate government agency/ies.
- w) Stock Corporation refers to one organized for profit and issues shares of stock to its members.
- x) 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.
- y) 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 for the exercise of a profession.
- z) Single Proprietorship refers to a business unit owned and controlled by only one person.
- aa) 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.
- bb) Quasi-banks refers to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.

CHAPTER II – WAGE RATES

Section 1. COVERAGE. The minimum wage rates prescribed under this Wage order shall apply to all workers and employees in the private sector regardless of their position, designation or status, and irrespective of the method by which their wages are paid, except household or domestic helpers and persons in the personal service of another, including family drivers.

Section 2. EFFECTIVITY. The Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation.

Section 3. DAILY MINIMUM WAGE RATES. Upon the effectivity of the Order, the Daily Minimum Wage Rates of workers and employees in Region III shall be as follows:

SECTOR	W.O. RBIII-04		WAGE ORDER RBIII-05			
	Bulacan	Other Provinces	Upon effectivity of the Order		Effective June 1, 1997	
			Bulacan	Other Provinces	Bulacan	Other Provinces
NON-AGRICULTURAL Establishment with 30 or more workers or with total assets of P30 million or more	147.00	143.00	157.00	153.00	163.50	159.50
Establishment with less than 30 workers or with total assets of less than P30 million	140.00	136.00	150.00	146.00	156.50	152.50
AGRICULTURE Plantation	115.00	115.00	125.00	125.00	131.50	131.50
Non-plantation	100.00	100.00	110.00	110.00	116.50	116.50
PRIVATE HOSPITALS Establishment with 16 or more employees	133.00	133.00	143.00	143.00	151.50	151.50
Establishment with less than 16 employees	120.00	120.00	130.00	130.00	137.50	137.50
RETAIL/SERVICE Establishment with 16 or more employees	133.00	133.00	143.00	143.00	149.50	149.50
Establishment with less than 16 employees	100.00	100.00	110.00	110.00	116.50	116.50
COTTAGE/HANDICRAFT	100.00	100.00	110.00	110.00	116.50	116.50

Section 4. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours of work a day.

Section 5. CREDITING. Wage increases granted by an employer within 90 days prior to the effectivity of the Order shall be credited as compliance with minimum wage prescribed herein.

Where such increase are less than the prescribed adjustment, the employer shall pay the difference. Such increase shall not include merit wage increase.

Section 6. WORKERS PAID BY RESULT.

a) All workers paid by result, including those who are paid by piecework or task basis, shall receive wages proportional to the equivalent of the minimum wage for a regular working day.

The adjusted minimum wage rates for workers paid by result shall be computed in accordance with the following steps:

- 1) Amount of increase in AMW* - previous AMW x 100 = % increase
*Where AMW is the Applicable Minimum Wage Rate.
- 2) Existing rate/piece x % increase = Increase in rate/piece
- 3) Existing rate/piece + Increase in rate/piece = adjusted rate/piece

b) The wage rates of workers who are paid by results shall continue to be established in accordance with article 101 of the Labor Code, as amended and its implementing regulations.

Section 7. WAGES OF LEARNERS APPRENTICE. Wages of apprentices and learners shall in no case be less than seventy five percent (75%) of the minimum wage rates under the Order.

All valid learnership and apprenticeship agreements entered into before the effectivity of the Order shall be considered as automatically modified insofar as their wage clauses are concerned.

Section 8. APPLICATIONS TO SERVICE CONTRACTORS AND OTHER CONTRACTORS. In the case of contractual workers for construction projects and for security, janitorial and similar services, the prescribed minimum wage for workers and employees under this category shall be paid by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed minimum wage, the construction/service contractor and the principal or client shall be jointly and severally liable.

Section 9. APPLICATIONS TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of workers and employees covered in the increase of tuition fees for School Year 1996-1997 shall be credited as compliance with the minimum wage prescribed herein. Where the share of the workers and employees is less than the minimum wage provided herein, the employer shall pay the difference starting School Year 1996-1997.

Private educational institutions which did not increase their tuition fees for the School Year 1996-1997 may defer compliance with the provisions of this Order until School Year 1997-1998.

In any case, all private educational institutions shall implement the increase in the daily minimum wage rate prescribed in the Order starting School year 1997-1998.

Section 10. MOBILE AND BRANCH WORKERS. The minimum wage rates of the workers working in branches or agencies of establishments in or outside the Region shall be those applicable in the place where they are stationed.

Section 11. TRANSFER OF PERSONNEL. The transfer of workers to areas outside the Region with lower minimum wage rate shall not be valid ground for the reduction of the wage rates being enjoyed by the worker prior to such transfer. The worker transferred to a Region with higher rates will be entitled to the minimum wage rates applicable therein.

Section 12. EXEMPTIONS. The following establishments may be exempted from the payment of the new minimum wage rates of this Wage Order upon application with and as determined by the Board in accordance with applicable rules and regulation to be issued by the Board and pursuant to Section 3A of NWPC Guidelines No. 01, series of 1996 (Rules on Exemption).

1. Retail/service establishments regularly employing not more than ten (10) workers
2. Distressed firms as defined in the NWPC Guidelines on Exemption
3. New Business Enterprises (NBEs).

Whenever an application for exemption has been duly filed with the Regional Board, action on any complaint for alleged non-compliance with the Order shall be deferred pending its resolution.

Section 13. 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 14. DISTRESSED PRINCIPAL. Exemption granted to a distressed principal shall not extend to its contractor(s) for construction, security, janitorial and/or similar services with respect to the employees of the latter assigned to the former.

Section 15. PROCEDURES ON EXEMPTION.

A. Procedure. Within sixty (60) days from date of publication of this Rules, an application for exemption shall be filed with the Board in two (2) typewritten copies by the owner/manager or duly authorized representative of an establishment, either through personal service or by registered mail. The date of mailing shall be deemed as the date of filing.

In case of New Business Enterprises (NBEs), the deadline for filing applications for exemption shall be sixty (60) days from the start of operations.

All applications for exemption shall be under oath and must be supported by a proof of notice to the Union President/contracting party (in case the establishment is organized) or a copy of the circular giving general notice to all workers (if there is no union) that an application for exemption from compliance with the Order has been filed with the Board. The proof of notice, which may be translated in the vernacular, shall state the workers' representative was furnished a copy of the application with all supporting documents. The notice shall be posted in a conspicuous place in the establishment.

B. Supporting Documents. The following supporting documents shall be submitted together with the application and the proof of notice:

For retail/service establishment employing not more than ten (10) workers:

1. An affidavit from the employer stating the principal economic activity, number of workers and amount of total assets;
2. Business permit for the current year from the appropriate government agency/ies.

For Distressed Establishments:

1. An affidavit from the employer stating the principal economic activity, number of employees and amount of total assets;
2. Audited financial statements for 1995 and 1996 filed with and stamped "received" by the BIR and SEC;
3. Interim quarterly financial statements for the interim period immediately preceding the effectivity of the Order;
4. Income tax returns for 1995 and 1996 filed with and stamped "received" by the BIR;
5. Quarterly income tax returns for the interim period, immediately preceding the Order;
6. Certification from the Central Bank, in case of banks under receivership/liquidation;

For New Business Enterprises:

1. An affidavit from the employer stating the date of start of business operations, principal economic activity, number of workers employed in the establishment and amount of total assets;
2. Business permit (latest registration) from the Office of the City/Municipal Mayor, SEC, DTI, or CDA registration; Certifications (if any) issued in special economic zones.

In case an application for exemption is filed with incomplete supporting documents, the applicant shall be notified and shall be given ten (10) days from receipt of the notice to complete the documents required, otherwise, the application shall be dismissed.

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

Section 16. CRITERIA FOR EXEMPTION. In order to determine whether an establishment is qualified for exemption, the following criteria used:

In the case of retail/service establishments regularly employing not more than ten (10) workers

1. It is engaged in the retail of goods or services to end-users for personal or household use; and
2. It is regularly employing not more than ten (10) workers.

In the case of distressed establishments:

1. For stock corporations/cooperatives:
 - a. When deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order amounts to 20% or more impairment of the paid-up capital for the same period; or
 - b. When an establishment registers capital deficiency i.e. negative stockholders' equity as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
2. For single proprietorships/partnerships:
 - a. Single proprietorships/partnerships operating for at least two (2) years may be granted exemption;
 - a.1 When the net accumulated losses for the last two (2) full accounting periods and interim period, if any, 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 or interim period, if any, immediately preceding the effectivity of the Order.
 - b. Single proprietorships/partnerships operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order 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
 - a. Non-stock, non-profit organizations operating for at least two (2) years may be granted exemption:
 - a.1. When the net accumulated losses for the last two (2) full accounting periods and interim period, if any, immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period under review, or
 - a.2. When an establishment registers capital deficiency i.e. negative fund balance/members' contribution as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
 - b. Non-stock non profit organizations operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members'/contribution at the beginning of the period under review.
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 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 3A of this Guidelines.

In case of New Business Establishments:

1. It is newly registered with the appropriate government agencies and started its business operations within two (2) years from the effectivity of the Order.
2. Establishment registered outside Export Processing Zone within two (2) years from effectivity of the Order classified under any of the following:
 - a. Agricultural establishments whether plantation or non-plantation
 - b. Establishments with total assets after financing of five million pesos (P5,000,000.00) and below.

Section 17. 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 18. 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 the date of 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

Section 19. EXTENT AND DURATION OF EXEMPTION. The Board has the discretion to grant full or partial exemption to such employer which shall not exceed one (1) year from the effectivity of this Wage Order.

Partial exemptions may be granted only in the case of distressed establishments.

New Business Enterprises that were established after the effectivity of the Order shall be exempted for a period not to exceed one (1) year from the start of the business operation, provided, however, that in the event a new wage order is issued, the exemption shall cover only Wage Order No. RBIII-04, without prejudice to the decision of the Board on the coming wage order.

Section 20. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION. In the event that applications for exemption are not granted, affected workers and employees shall received the appropriate wages due to them as provided for in this Order plus interest of one percent (1%) per month retroactive to the effectivity of this Order.

Section 21. WAGE DISTORTION. Where the application of the prescribed minimum wage under the Order results in wage distortion, the employers and workers shall correct the same if such arises from a severe contraction of quantitative differences in salary rates between and among employees and workers. This shall be settled through employers initiative, grievance procedure, voluntary arbitration, through the National Conciliation and Mediation Board, or through the National Labor Relations Commission, whichever is applicable.

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

Section 22. NON-DIMINUTION OF BENEFITS. Nothing in the Order and in this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, Executive Orders, and/or under any contract or agreement between the workers and employees.

Section 23. COMPLAINTS FOR NON-COMPLIANCE. The Department shall conduct inspections of establishments as often as necessary to determine whether the workers are paid the prescribed wage rates and other benefits granted by law or any Wage Order. In the conduct of inspection in unionized companies, Department inspectors shall always be accompanied by the President or other responsible officer of the recognized bargaining unit or of any interested unit. In the case of non-unionized establishments, the worker representing the workers in the said company shall accompany the Inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not concur with the findings of the Labor Inspector.

Section 24. PAYMENT OF WAGES. Upon written petition of the majority of workers and employees concerned, all private establishments, companies, businesses and other entities with at least twenty five (25) workers and located within one (1) kilometer radius to a commercial, savings or rural bank, shall pay the wages and other benefits of their workers through any of said banks within the period and in the manner and form prescribed under the Labor Code, as amended.

Section 25. REPORTORIAL REQUIREMENTS. All employers whether covered or exempted, shall submit a duly prescribed report on their compliance with the Order on or before January 31, 1998, and every year thereafter.

Section 26. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceeding before the Board.

Section 27. PENALTIES. Pursuant to the provision of Section 12 of Republic Act N. 6727, as amended by Republic Act 8188, any person, corporation, trust, firm, partnership, associations or entity which refuses or fails to pay the prescribed increase in the Order shall be punished by a fine not exceeding 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 courts. Provided, that any person convicted under the Order shall be not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposable under the Act.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner.

Section 28. APPLICABILITY. If any provision or part of the Order in this Rules is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in the Order and in this Rules shall be construed to reduce any existing wage rate, allowance or other benefits under existing laws, decrees, issuances executive orders and/or under contract or agreement between workers and employers.

For establishments not covered under the Order, the relevant provisions of Wage Order No. RBIII-04 shall continue to apply provided, however, that provisions of previous wage orders not consistent and contrary to the Order are hereby repealed.

Section 29. EFFECTIVITY. This Rules shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation.

Done in the Municipality of San Fernando, Province of Pampanga, Republic of the Philippines this 18th day of March , 1997.

SABINO C. MENDIOLA
Workers' Representative

(SGD) JOSE T. DE LEON
Employers' Representative

RAUL C. REMODO
Workers' Representative

(SGD) JONES B. ALABANZA
Employers' Representative

(SGD) LEON M. DACANY, JR.
(Officer in Charge, NEDA III)

(SGD) OLIVER B. BUTALID
Vice-Chairman

(SGD) ANA C.DIONE
Chairman

Approved this 8th day of May, 1997, subject to the notations below:

(SGD) LEONARDO A. QUISUMBING
Secretary

NOTATIONS TO RULES IMPLEMENTING WAGE ORDER NO. RBIII-05

1. Section 1, Chapter II shall be modified to read as follows:
"The minimum wage rates prescribed under this Wage Order shall apply to covered workers and employeesxxx xxx."
2. Section 12 (2), Chapter II should cite the correct reference, i.e. , NWPC Guidelines No. 01, Series of 1996.
3. Section 15A, Chapter II , second paragraph shall provide for the correct deadline for filing of applications of NBEs i.e. 60 days from date of registration.
4. The interim quarterly financial statements required under Section 15B, Chapter II (for distressed establishments) shall be audited as per the Rules on Exemption.
5. The required submission of certifications issued in Special Economic Zone under Section 15B, Chapter II (for New Business Enterprises) and the definition of the term "start of operations" under Chapter I (v) shall be deleted.
6. The provision on "Applicability" under Section 28, Chapter II, particularly the first sentence shall be appropriately titled "Separability" while the second sentence shall be aptly titled "Non-diminution of Benefits."
7. The effectivity of the Rules under Section 29, Chapter II shall be April 5, 1997.