

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-09**  
**PROVIDING FOR NEW MINIMUM WAGE RATES IN CENTRAL LUZON**

**WHEREAS**, it has been the mandate of the Regional Tripartite Wages and Productivity Board No. 3 (RTWPB-3) to periodically review the minimum wage rates, unemployment and other conditions in the Region;

**WHEREAS**, a joint wage petition from the Trade Union Congress of the Philippines, Labor Advisory Consultative Council and Alliance of Progressive Labor, collectively known as the Labor Solidarity Movement was filed with the RTWPB-3 on August 7, 2001;

**WHEREAS**, in response to the wage petition and pursuant to the requirements of the rules on minimum wage fixing, the RTWPB-3 conducted a wage consultation on September 9, 2001;

**WHEREAS**, after giving due consideration on the results of the wage consultation and the analysis of the standard/criteria for minimum wage fixing set forth in Republic Act 6727, the RTWPB-3 views the need to adjust the minimum wage rates in Region III;

**NOW THEREFORE**, by virtue of the power and authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Region 3, hereby issues this Wage Order:

Section 1. **MINIMUM WAGE INCREASE.** Upon effectivity of this Wage Order, all covered workers and employees in the private sector receiving a minimum wage will receive an increase of TWENTY PESOS (P20.00) per day for all categories.

Section 2. **NEW MINIMUM WAGE RATES.** Upon the effectivity of this Wage Order, the daily minimum wage rates applicable to workers and employees in the private sector in Region 3 shall be as follows:



Section 3. **COVERAGE.** The minimum wage rates provided in this Wage Order shall apply to all covered workers and employees in the private sector in Region 3 regardless of position, designation or status of employment and irrespective of the method by which their wages are paid. Not covered in this Order are household or domestic helpers and persons employed in the personal service of another including family drivers.

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

Section 5. **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 new minimum wage per eight (8) hours a day, or a proportion, thereof for working less than eight (8) hours.

Section 6. **WAGES OF SPECIAL GROUPS OF WORKERS.** Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable wage rate prescribed in this Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified in so far as their wage clauses are concerned to reflect the new prescribed wage rates.

Section 7. **APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of educational institutions, the share of workers and employees covered in the increase in tuition fees for School Year 2001-2002 shall be considered as compliance with this 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 2002-2003.

Private educational institutions which did not increase their tuition fees for the School Year 2001-2002 may defer compliance with the provisions of this Order until School Year 2002-2003.

Section 8. **APPLICATION TO CONTRACTORS.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage rates of the workers shall be borne by the principal or clients of the construction/service contractors and contract shall be deemed accordingly. In the event, however, that the principal or client fails to pay the prescribed new minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 9. **EXEMPTION.** Upon application with and as determined by the Board, based on documents and other requirements in accordance with the applicable rules and regulations issued by the Commission, the following may be exempt from the applicability of this Order.

1. Retail and service establishments employing not more than ten (10) workers at the time of the publication of this Wage Order; and
2. Distressed establishments, as defined in the NWPC Guidelines No. 1, series of 1996.

All applications for exemption from compliance with this Order shall be filed within seventy-five (75) days from the date of the publication of the Rules Implementing the Wage Order.

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 this 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, the employer shall pay the difference.

Section 12. **CREDITING.** Increases by an employer within ninety (90) days prior to the effectivity of this Order shall be credited as compliance with the Order, provided that, where such increases are less than what is provided in the Order, the employer shall pay the difference.

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

Section 13. **EFFECTS ON EXISTING WAGE STRUCTURE.** Wage distortions that may result as a consequence of this Order shall be addressed through mutual agreement by the employer and its employees or their representative unions.

Advisory formula to correct distortions are annexed to the Implementing Rules of this Order as possible alternatives for the parties to consider.

The annexed formula are neither compulsory nor mandatory in nature and any other agreement the parties may adopt shall take precedence to these advisory formula.

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

Disputes that may arise as a result of this Order shall be resolved in accordance with Article 124 of the Labor Code as amended.

Section 14. **COMPLAINTS FOR NON-COMPLIANCE.** Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 15. **NON-DIMINUTION OF BENEFITS.** Nothing in this 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 Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 17. **PROHIBITION AGAINST INJUNCTION.** No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal, or other entity against any proceedings before the Board.

Section 18. **FREEDOM TO BARGAIN.** This Wage Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 19. **REPORTING REQUIREMENTS.** Any person, company, corporation, partnership, or any entities engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2002 and every year thereafter in accordance with the form prescribed by the Commission.

Section 20. **REPEALING CLAUSE.** All laws, 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 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 Order subject to the approval of the Secretary of Labor and Employment.

Section 23. **EFFECTIVITY.** This Wage Order shall take effect on January 16, 2002.

**APPROVED** this 26th day of November 2001, San Fernando City, Pampanga.

(SGD) **JOSE T. DE LEON**  
Board Member

(SGD) **FLORDELIZA MA. R. RAYEL**  
Board Member

(SGD) **SABINO C. MENDIOLA \***  
Board Member

(SGD) **RAUL C. REMODO \***  
Board Member

(SGD) **REMIGIO A. MERCADO**  
Vice-Chairperson

(SGD) **BLESILA A. LANTAYONA**  
Vice-Chairperson

(SGD) **ANA C. DIONE**  
Chairperson

\* - Refused to sign

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  
**RULES IMPLEMENTING WAGE ORDER NO. III-09**  
**RULE I**  
**GENERAL PROVISIONS**

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 22 of Wage Order No. RBIII-09, the following rules are hereby issued for guidance and compliance by all concerned.

**Section 1. Title**

This Rules shall be known as the "Rules Implementing Wage Order No. RBIII-09"

**Section 2. Definition of Terms.** As used in this Rules.

- a) Order refers to Wage Order No. RBIII-09;
- 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, Tarlac, San Jose and San Fernando City;
- g) Basic Wage means all remuneration or earnings paid by an employee 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;
- 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 Enterprise";
- 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 Helper refers to 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.
- m) Retail Establishment refers to one principally engaged in the sale of goods to end-users for personal or household use. A retail establishment that regularly engage in wholesale activities loses its retail character.

n) 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.

o) Distressed Employer refers to employers/establishments which meet the criteria enumerated in Sec. 3 (A) of the NWPC Guidelines No. 01 Series of 1996 on the Rules 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 the 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 (1) year of business operations.

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) 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 for the exercise of a profession.

x) Single Proprietorship refers to a business unit owned and controlled by 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: credits, 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.

## **RULE II NEW MINIMUM WAGE RATES**

Section 1. **NEW MINIMUM WAGE RATES.** Upon effectivity of the Wage Order, the daily minimum wage rates applicable to workers and employees in the private sector in Region 3 shall be as follows:

<i>SECTOR</i>	<b>Wage Order No. RBIII-08</b>		<b>Wage Order No. RBIII-09</b>	
	<i>BULACAN</i>	<i>OTHER PROVINCES</i>	<i>BULACAN</i>	<i>OTHER PROVINCES</i>
<b>NON-AGRICULTURE</b>				
Establishment with total assets of P30 million or more	208.50	204.50	228.50	224.50
Establishment with total assets of less than P30 million	201.00	197.00	221.00	217.00
<b>AGRICULTURE</b>				
Plantation	174.50	174.50	194.50	194.50
Non-Plantation	158.50	158.50	178.50	178.50
<b>PRIVATE HOSPITALS</b>				

With bed capacity of 20 or more	195.50	195.50	215.50	215.50
With bed capacity of less than 20	180.50	180.50	200.50	200.50
<b>RETAIL./SERVICE</b>				
Establishment with 16 or more employees	193.50	193.50	213.50	213.50
Establishment with less than 16 employees	179.50	179.50	199.50	199.50
<b>COTTAGE/HANDICRAFT</b>	158.50	158.50	178.50	178.50

Section 2. **COVERAGE.** The minimum wage rates provided in the Wage Order shall apply to all covered workers and employees in the private sector in Region 3 regardless of position, designation or status of employment and irrespective of the method by which their wages are paid. Not covered in this Order are household or domestic helpers and persons employed in the personal service of another including family drivers.

Section 3. **BASIS OF MINIMUM WAGE.** The minimum wage rates prescribed in the Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4. **CREDITING.**

- a) Increases granted by employers within ninety (90) days prior to the effectivity of the Wage Order shall be credited as compliance with the Order. In case the increases are less than the prescribed adjustment in the Order, the employer shall pay the difference.
- b) Such increases shall not include anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employee, unless there is an agreement expressly allowing such crediting

Section 5. **APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.**

In the case of educational institutions, the share of workers and employees covered in the increase in tuition fees for previous School Year shall be credited as compliance with the Wage Order. Where the share of the workers and employees is less than what is provided therein, the employer shall pay the difference starting School Year 2002-2003.

Private educational institutions which did not increase their tuition fees for the previous School Year may defer compliance with the provision of the Wage Order until School Year 2002-2003.

Section 6. **APPLICATION TO CONTRACTORS.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage rates of the workers shall be borne by the principal or clients of the construction/service contractors and contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed increase, the construction/service contractor and the principal or client shall be jointly and severally liable.

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

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

a) Amount of increase in AMW\*  

$$\frac{\text{-----}}{\text{Previous AMW}} \times 100 = \% \text{ increase;}$$

b) Existing rate/piece x % increase = increase in rate/piece

c) Existing rate/piece + increase in rate/piece = Adjusted rate/piece

\* Where AMW is the applicable minimum wage rates

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 rules.

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

All recognized 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 to reflect adjustments prescribed under the Order.

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

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

Section 11. **APPEAL TO THE COMMISSION.** Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

Section 12. **EFFECT OF THE APPEAL.** The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

### **RULE III EXEMPTIONS**

Section 1. **EXEMPTIONS.** The following establishments may be exempted from the payment of the new minimum wage rates upon application with and as determined by the Board based on documentation and other requirements pursuant to the NWPC Guidelines No. 01, Series of 1996.

1. Retail/service establishments regularly employing not more than ten (10) workers at the time of the publication of the Wage Order; and
2. Distressed establishments

#### **Section 2. PROCEDURES ON EXEMPTION.**

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

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 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 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:
1. For Retail/Service Establishments
    - a. Affidavit from employer stating the following:
      - a.1 It is a retail/service establishment,
      - a.2 It is employing not more than ten (10) workers at the time of the publication of the Wage Order.
    - b. Business Permit for the current year from the appropriate government agency.
    - c. Complete payroll for the period covering last Quarter of 2001.
  2. For Distressed Establishments
    - a. Audited financial statements together with the Auditor's opinion and the notes thereto for 2000 and 2001 stamped "received" by the BIR and SEC;
    - b. Certification from the Central Bank, in case of banks under receivership/liquidation;
    - c. Complete payroll for the period covering last Quarter of 2001.

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

- C. Criteria for Exemption.** In order to determine whether an applicant establishment is qualified for exemption, the following criteria shall be used:
1. For Retail/Service Establishments
    - a. It is engaged in the retail sale of goods and/or services to end users for personal or household use; and
    - b. It is employing not more than ten (10) workers regardless of status, except the owner/s, at the time of the publication of the Wage Order.
  2. For Distressed Establishments

**For stock corporations/cooperatives:**

- a. When the deficit as of the last full accounting period immediately preceding the effectivity of the Order amounts to twenty (20%) or more of the paid-up capital for the same period; or
- b. When an establishment registers a capital deficiency i.e. negative stockholders' equity as of the last full accounting period immediately preceding the effectivity of the Order.

**For single proprietorship/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 preceding the effectivity of the Order amounts to twenty percent (20%) or more of the total invested capital at the beginning of the period under review; or
- 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. Single proprietorships/partnerships operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to twenty percent (20%) or more of the total invested capital at the beginning of the period under review.

#### **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 preceding the effectivity of the Order amounts to twenty percent (20%) or more of the fund balance/members' contribution at the beginning of the period under review, or
  - a.2. When an establishment registers capital deficiency i.e. negative fund balance/members' contribution as of the last full accounting period 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 twenty percent (20%) or more of the fund balance/members' contribution at the beginning of the period under review.

#### **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 6753, 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 NWPC Guidelines No. 01, Series of 1996

Section 3. **DURATION AND EXTENT OF EXEMPTION.** A full exemption of one (1) year shall be granted to retail/service and distressed establishments that meet the applicable criteria for exemption under Section 3 of NWPC Guidelines No. 01, Series of 1996.

However, a partial exemption of 50% with respect to the amount or period of exemption may be granted to distressed establishments.

Section 4. **EFFECT OF FILING OF 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 5. **EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION.** In the event that the application for exemption is not approved, affected workers shall be paid the mandated minimum wage rates as provided for under the Order retroactive to the date of the effectivity of the order plus simple interest of one percent (1%) per month retroactive to the effectivity of the Wage Order.

Section 6. **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.

#### **RULE IV SPECIAL PROVISION**

Section 1. **EFFECTS ON EXISTING WAGE STRUCTURE.** Should any dispute arise as a result of 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 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.

Advisory formula to correct distortions are annexed to this Rule as possible alternatives for the parties to consider. (Annex A)

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

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

Section 2. **COMPLAINTS FOR NON-COMPLIANCE.** Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 3. **CONDUCT OF INSPECTION BY THE DEPARTMENT.** The Department shall conduct inspection of establishments, as often as necessary, to determine whether workers are paid the minimum wage rates and the cost of living prescribed in the Wage Order and other benefits granted by law or any Wage Order. In the conduct of inspection in unionized companies, Department inspectors shall always be accompanied by the President or other responsible officer of the recognized bargaining unit or of any interested union. In the case of non-unionized establishments, a representative chosen by the workers in the said company shall accompany the Department Inspector.

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

Section 4. **NON-DIMINUTION OF BENEFITS.** Nothing in the Order and in this Rules shall be construed to reduce any existing wage rates, allowances, and benefits of any form under existing laws, decrees, issuance, executive orders and/or under any contract or agreement between the workers and the employers.

Section 5. **PENAL PROVISION.** Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed wage adjustments in the Order shall be punished by a fine of not less than Twenty-five thousand pesos (P25,000.00) nor more than One hundred thousand pesos (P100,000.00) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

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

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 criminal liability imposable under this Act.

Section 6. **PROHIBITION AGAINST INJUNCTION.** No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal, or other entity against any proceedings before the Board.

Section 7. **FREEDOM TO BARGAIN.** The Wage Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 8. **REPORTING REQUIREMENTS.** Any person, company, corporation, partnership, or any entities engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2002 and every year thereafter in accordance with the form prescribed by the Commission.

Section 9. **REPEALING CLAUSE.** All laws, orders, rules, and regulations on wages, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

Section 10. **SEPARABILITY CLAUSE.** If any provision or part of the Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 11. **EFFECTIVITY.** This Rules shall take effect on January 16, 2002.

**APPROVED** this 21st day of January, 2002 San Fernando City, Pampanga. .

(SGD) **JOSE T. DE LEON**  
Board Member

(SGD) **FLORDELIZA MA. R. RAYEL**  
Board Member

(SGD) **SABINO C. MENDIOLA**  
Board Member

(SGD) **RAUL C. REMODO**  
Board Member

(SGD) **REMIGIO A. MERCADO**  
Vice-Chairperson

(SGD) **BLESILA A. LANTAYONA**  
Vice-Chairperson

(SGD) **ANA C. DIONE**  
Chairperson

**Approved** this 13th day of February 2002, subject to the notation below:

(SGD) **PATRICIA A. STO. TOMAS**  
Secretary  
Department of Labor and Employment

#### **NOTATION TO THE RULES IMPLEMENTING WAGE ORDER NO. RBIII-09**

The table heading in Section 1, Rule II (New Minimum Wage Rates) should be changed to "Wage Order No. RBIII-09"

#### **ANNEX A ADVISORY FORMULA IN CORRECTING THE EFFECTS OF THE WAGE ORDER ON THE EXISTING WAGE STRUCTURE (WAGE DISTORTION)**

##### **1. Pineda Formula**

$$\text{Wage distortion adjustment} = \frac{\text{Existing minimum wage}}{\text{Wage of Employee}} \times \text{Mandated wage increase}$$

##### **2. Pineda-Cruz-So Formula**

$$\text{Wage distortion adjustment} = \frac{\text{Existing minimum wage}^n}{\text{Wage of Employee}} \times \text{Mandated wage increase}$$

**Where :** Exponent is represented by <sup>n</sup>

### 3. Percentile Approach

$$\text{Wage distortion adjustment} = \text{Percentile weight of pay group} \times \text{Mandate wage increase}$$

### 4. Philippine Construction Supply Formula

$$\text{Wage distortion adjustment} = \frac{\text{Existing minimum wage}}{\text{Formula base range (FBR)}} \times \text{Mandated wage increase}$$

**Where:** FBR = Actual wage rate (AWR ) + Agreed amount of adjustment

### 5. Jimenez, Ofreneo, Delas Alas Jr. (JODA) Formula

$$\text{Wage distortion adjustment} = \frac{Wb - Wa}{2}$$

$$\text{New daily wage rate} = \text{wage distortion adjustment} + Wc$$

**Where:** Wa = old daily minimum wage  
 Wb = daily wage of employee (where Wb>Wa, or Wb is above Wa)  
 Wc = new daily minimum wage  
 = Wa + mandated wage increase

### 6. Wirerope Formula

$$\text{Wage distortion adjustment} = \frac{\text{Existing minimum wage}}{\text{Present wage of employee Creditable}} \times (\text{Mandated wage increase} - \text{increase})$$

### 7. Bagtas Approach

$$\text{Wage distortion adjustment} = \frac{\text{New minimum wage}}{\text{Previous minimum wage}} \times \text{Present wage of employee}$$

## Rules Implementing Wage Order No. RBIII-09

### ANNEX B

**Suggested Formula in Determining the Equivalent Monthly Regional Minimum Wage Rates - Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rates:**

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

Equivalent:  
 Monthly Rate (EMR) =  $\frac{\text{Applicable Daily Wage Rate (ADR)} \times 391.50 \text{ days}}{12}$

Where 391.50 days:

302 days - Ordinary working days  
 18 days - 9 regular holidays X 200%

2.6 days - 1 regular holiday falling on last Sunday of  
August X 200% + (30% of 200%)  
66.30 days - 51 rest days X 130%  
2.60 days - 2 special days X 130%  
391.50 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:

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

Where 365 days:

302 days - Ordinary working days  
51 days - Rest days  
10 days - Regular Holidays  
2 days - Special days  
365 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 314.6 \text{ days}}{12}$$

Where 314.6 days:

302 days - Ordinary working days  
10 days - Regular Holidays  
2.6 days - 2 Special days (if worked) x 130%  
314.6 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:

$$\text{EMR} = \frac{\text{ADR} \times 262.6 \text{ days}}{12}$$

Where 262.6 days:

250 days - Ordinary working days  
10 days - Regular Holidays  
2.6 days - 2 Special days (if worked) x 130%  
262.6 days - Total equivalent number of days

Note: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them, is included in the ten regular holidays.

For workers whose rest days does not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.