

Republic of the Philippines
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region V
Legaspi City

WAGE ORDER NO. RB05-01

PROVIDING AN EMERGENCY COST OF LIVING ALLOWANCE

WHEREAS, the Gulf crisis has resulted in the withdrawal from the world market of oil from Iraq and Kuwait and despite increased production from other producers the oil supply continues to be uncertain, thus raising oil prices;

WHEREAS, the effect of this crisis and the adjustment in the value of the Philippine peso vis-à-vis the US dollar have made it imperative to increase the prices of domestic petroleum products by an average of P1.42 per liter on 21 September 1990;

WHEREAS, such adjustments have contributed to substantial increases in transportation fares and prices of basic goods and services;

WHEREAS, in addition to the efforts of government to hold down prices of basic commodities, it is necessary to provide immediate relief measures to workers and their families to enable them to cope with the rising cost of living, without impairing the viability of business and industry;

WHEREAS, in consideration of the socio-economic conditions prevailing in Region V and the adverse effects brought about by the above premises;

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

Section 1. Upon the effectivity of this Wage Order, all employers in the private sector in Region V shall pay their workers and employees an Emergency Cost of Living Allowance of FOURTEEN PESOS (P14.00) per day.

Section 2. All covered workers shall be entitled to the allowance provided herein for days actually worked.

Section 3. The ECOLA granted from the provisions under this Wage Order shall not be considered as part of the regular wage of the workers for purposes of computing wage related benefits, such as, 13th month pay, overtime and premium pay, night differential pay as well as premium contributions to the State Insurance Fund, SSS, Medicare, Pag-IBIG and others.

Section 4. Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Retail/Service establishments regularly employing not more than ten (10) workers may be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations.

Distressed employers whose capital has been impaired by at least twenty-five (25%) during the preceding year maybe exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations. The Regional Board has the option to grant full or partial exemption to such distressed employers, the allowed maximum period of exemption being one (1) year.

Whenever an application for exemption has been filed with the Regional Board, action by the Regional Office of the Department of Labor and Employment on any complaint for alleged

non-compliance with this Wage Order shall be deferred pending resolution of the application for exemption by the Regional Board.

In the event that an application for exemption is not granted, covered workers and employees shall receive the appropriate compensation due them as provided for in this Wage Order plus interest of one (1%) per month retroactive to the effectivity of this Wage Order.

Section 5. In the case of private educational institutions, the share of covered workers and employees in the increase of tuition fees for school year 1990 shall be credited as compliance with the wage increase provided herein. Where their share is less than the wage increase provided herein, the employer shall pay the difference.

Section 6. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed ECOLA of covered workers and employees shall be borne 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 allowance, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 7. All workers paid by result, including those who are paid on piecework, takay, pakyaw or task basis, shall be entitled to receive the prescribed daily ECOLA.

Section 8. In lieu of the ECOLA prescribed under this Wage Order, employers may grant wage increases which shall be considered as compliance with this Wage Order, provided the amount is not less than what is required herein.

Section 9. The Board shall prepare the necessary rules and regulations to implement this Wage Order, subject to approval of the Secretary of Labor and Employment.

Section 10. Any employer who refuses or fails to pay the ECOLA provided under this Wage Order shall be subject to the penalties specified under Section 12 of RA 6727.

Section 11. If any provisions or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or other benefit under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between workers and employers.

Section 12. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

Approved, 23 October 1990

(SGD) EDUARDO B. ALAMARES
Worker Representative

(SGD) ADOLFO L. OLIVAN
Employer Representative

BENJAMIN B. BASQUIÑAS
Worker Representative

(SGD) LIONSON L. CRIBE
Employer Representative

MANUEL G. IMPERIAL
Vice-Chairman

VENANCIO S. BAFLAGON
(SGD.) by: ANTONIO S. BUENAVENTURA
Vice-Chairman

(SGD) TEDDY S. CABELTES
Chairman

Republic of the Philippines
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region 05, Legaspi City

RULES IMPLEMENTING WAGE ORDER NO. RB 05-01

Pursuant to Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 7 of Wage Order No. RB05-01, the following rules are hereby issued for guidance and compliance by all concerned:

CHAPTER I - Definition Of Terms

Section 1. Definition of Terms. - As used in this Rules:

- a) "Order" means Wage Order No. RB 05-01;
- b) "Commission" means the National Wages and Productivity Commission;
- c) "Board" means the Regional Tripartite Wages and Productivity Board;
- d) "Region O5" covers the provinces of Albay, Camarines Norte, Camarines Sur, Catanduanes, Masbate, Sorsogon and cities therein;
- e) "Regular Wage" means all remuneration or earnings paid for by an employer to an employee for services rendered on normal working days including holidays but does not include cost-of-living allowances, profit-sharing payments, overtime and premium payments, 13th month pay, night differential pay and other monetary benefits which are not considered as part, or integrated into, the basic salary of the employee on the date the Order became effective;
- f) "ECOLA" means Emergency Cost-of-Living Allowance;
- g) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- h) "Service Establishment" is one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such;
- i) "New Business Enterprises" refer to enterprises, including non-profit institutions, newly registered with the appropriate government agency such as SEC, DTI, Cooperatives Development Authority and Mayor's Office, within the period July 1, 1989 to June 30, 1993;
- j) "Distressed Establishments/Employer" refers to establishment/employer who have suffered losses as determined by the Board;
- k) "Department" refers to the Department of Labor and Employment;

CHAPTER II - Emergency Cost-Of-Living Allowance

Section 1. Coverage. - The ECOLA prescribed under the Order shall apply to all workers and employess in the private sector in Region 05 regardless of their position, designation or status, and irrespective of the method by which their wages are paid, except:

- a) Household or domestic helpers, including family drivers and workers in the personal service of another;
- b) Workers and employees in retail/service establishments regularly employing not more than 10 workers, when exempted from compliance with the Order, for a period fixed by the Board in accordance with applicable guidelines to be issued by the Commission; and

c) Workers in new business enterprises for a period of not more than three years from the start of operations, when exempted from compliance with the Order in accordance with Section 4 of the Order and Section 7 of this Rules;

d) Workers of distressed establishments when exempted by the Board.

Section 2. Effectivity. - The emergency cost-of-living allowance prescribed under the Order shall take effect November 20, 1990, 15 days following its complete publication in one (1) newspaper of general circulation on November 4, 1990 pursuant to Section 10 thereof.

Section 3. Amount. - All employers in the private sector in Region 05 shall pay their workers and employees an ECOLA of FOURTEEN PESOS (P 14.00) per day, effective November 20, 1990.

Section 4. Special Features of the Allowance

a) The allowance prescribed under the Order shall be granted to all covered workers and employees for days actually worked;

b) The allowance granted under the Order shall not be considered as part of regular wage of the workers for purposes of computing wage related benefits, such as, 13th month pay, overtime and premium pay, night shift differential pay as well as premium contribution to the State Insurance Fund, SSS, Medicare and others;

c) Any covered worker who is on leave of absence is not entitled to the prescribed allowance; and

d) Services rendered for less than the regular eight (8) hours worked per day, shall entitle the worker/employee to the ECOLA proportionate to the number of actual hours of work rendered. Provided, however, that when a worker or employee is required to work during holidays or rest days, he shall be entitled to the full ECOLA granted under the Wage Order regardless of the number of hours worked.

Section 5. Application to Private Educational Institutions. - The payment of the emergency cost-of-living allowance herein granted shall apply to all covered workers and employees in the educational institutions as soon as the latter have increased or are granted the authority to increase tuition fees during the school year 1990-1991. Otherwise, such emergency cost-of-living allowance shall be applicable not later than the opening of the next school year beginning 1991 whether or not said increase or authority to increase tuition fees is granted.

Section 6. Application to Contractors. - In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed emergency cost-of-living allowance of covered workers shall be borne by the principal or client of the construction/service contractors and their contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed emergency cost-of-living allowance, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 7. Exemption.

a) The following establishments may be exempted from compliance with ECOLA prescribed under the Order upon application with and as determined by the Board in accordance with applicable rules and regulations:

1. Retail/service establishments regularly employing not more than (10) workers; and
2. New business enterprises for a period of not more than three (3) years, from the start of operations.

b) Distressed establishment/employers whose capital has been impaired by at least twenty-five percent (25%) during the preceding year may be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations.

The Regional Board has the option to grant full or partial exemption to such distressed employers for a period of not more than three (3) years from the start of the operations;

c) Whenever an application for exemption has been duly filed with the Board action by the Regional Office of the Department in Region 05 on any compliant for alleged non-compliance with the Order shall be deferred pending resolution of the said application;

d) In the event the application for exemption is not granted, all covered workers and employees shall receive the appropriate compensation due them as provided under the Order plus interest of one percent (1%) per month retroactive to the effectivity of the Wage Order.

Section 8. Workers Paid by Results. - All covered workers paid by results, including those who are paid on piecework, "takay", "pakyaw", or task basis, shall be entitled to receive the amount prescribed ECOLA 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 9. Complaints for Non-Compliance. - Complaints for non-compliance with the emergency COLA provided in the Order shall be filed with the Regional Office of the Department in Region 05 and shall be the subject of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended.

Section 10. Non-Diminution of Benefits. - Nothing in the Order and in this Rules shall be construed as authorizing the reduction of 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 employers or employer practices or policies.

Section 11. Penal Provision. - Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed wage adjustments under the Order shall be punished by a fine not exceeding P 25,000.00 and/or imprisonment of not less than two years. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

Section 12. 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 13. Effects on Other Issuances. - The provision of existing laws and decrees on wages and their implementing rules and regulations and issuances not otherwise repealed, modified or inconsistent with the Order and this Rules shall continue to have full force effect.

Section 14. Effectivity. - This Rules shall take effect on November 20, 1990.

Done in Legaspi City, Albay, Republic of the Philipines this 8th day of November, 1990.

(SGD) EDUARDO B. ALAMARES
Labor Sector Representative

(SGD) ADOLFO L. OLIVAN
Management Sector Representative

(SGD) BENJAMIN B. BASQUIÑAS
Labor Sector Representative

(SGD) LIONSON L. CRIBE
Management Sector Representative

(SGD) MANUEL G. IMPERIAL
Vice Chairman

VENANCIO BACLAGON
(SGD) by: ANTONIO BUENAVENTURA
Vice Chairman

(SGD) TEDDY S. CABELTES
Chairman

