



## WAGE ORDER NO. RBV-16

### PROVIDING FOR NEW MINIMUM WAGE RATES TO PRIVATE SECTOR WORKERS IN THE BICOL REGION

**WHEREAS**, the Regional Tripartite Wages and Productivity Boards (RTWPBs) are mandated by law to determine and fix the minimum wage rates and structure applicable in the region;

**WHEREAS**, a Petition for Wage Increase, Recovery of Real Wage and Activation of the Regional Tripartite Monitoring Board was filed on August 20, 2013 by the Alliance of Progressive Labor (APL), Pinagkaisang Manggagawa sa Kooperatiba sa Kuryente-Bicol (PMMKB), and the Casureco I Independent Union of Employees (CINDUEM);

**WHEREAS**, in response to the said petition and after giving due notice to all concerned sectors, Provincial Public Hearings on Wage Issues were conducted in all the six (6) provinces of Bicol Region i.e. Masbate, Catanduanes, Sorsogon, Albay, Camarines Sur and Camarines Norte on October 3, 8, 10, 14, 17 and 18, 2013, respectively;

**WHEREAS**, based on the public hearings, studies and deliberations conducted, the Regional Board decided to adjust the prevailing minimum wage rates in the Region to enable the workers to cope with the rising cost of living without impairing the viability of business and industry;

**WHEREAS**, consistent with the government's policy of achieving higher levels of productivity to promote economic growth, to generate employment and to augment the income of workers thereby strengthening the competitiveness of business enterprises through productivity improvement and gain-sharing programs, the Two-Tiered Wage System (TTWS) is now being implemented as one of the major policy reforms of the Department of Labor and Employment (DOLE);

**NOW, THEREFORE**, the Regional Tripartite Wages and Productivity Board (RTWPB) of Region V, by virtue of the power and authority vested under Republic Act No. 6727 (*Wage Rationalization Act*), hereby issues this Wage Order, to wit:

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

Sector / Industry	Minimum Wage Under Wage Order No. RBV-15	Basic Wage Increase	New Minimum Wage Rates
<b>A. NON-AGRICULTURE</b>			
<b>A.1. Establishments</b>			
-Employing more than ten (10) workers	252.00	8.00	P260.00
-Employing not more than ten (10) workers	228.00	8.00	P236.00
<b>A.2. Cottage/Handicraft</b>	228.00	8.00	P236.00
<b>B. AGRICULTURE</b>	228.00	8.00	P236.00

**Section 2. COVERAGE.** The wage rate per day prescribed in this Order shall apply to all minimum wage earners in the private sector in the Region regardless of their position, designation or status of employment and irrespective of the method by which they are paid.

This Wage Order shall not cover household or domestic workers, persons in the personal service of another, including family drivers, and workers of duly registered Barangay Micro-Business Enterprises (BMBEs) with certificates of authority pursuant to RA 9178.

**Section 3. BASIS OF MINIMUM WAGE RATES.** 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 4. PRODUCTIVITY-BASED WAGES.** In order to sustain the rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor-management cooperation as well as implement gainsharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. (RA) 6971 or the Productivity Incentives Act of 1990.

**Section 5. CREDITABLE WAGE INCREASE.** Wage increases or allowances granted by an employer within three (3) months before the effectivity of this Order shall be credited as compliance herewith. Where the wage increases or allowances granted are less than that prescribed under this Order, the employer shall pay the difference.

Anniversary wage increases provided in collective bargaining agreements, merit wage increases and those resulting from the regularization or promotion of employees shall not be credited as compliance herewith.

Benefits derived from productivity gain-sharing schemes shall not be credited as compliance.

**Section 6. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2013-2014 shall be considered as compliance with the increase set forth herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting school year 2014-2015.

Private educational institutions, which have not increased their tuition fees for the School Year 2013-2014, may defer compliance with the provisions of this Order until the beginning of School Year 2014-2015.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2014-2015.

**Section 7. WORKERS PAID BY RESULTS.** All workers paid by results, including those who are paid on piecework, "takay", "pakyaw" or task basis, shall receive not less than the prescribed minimum wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

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

**Section 9. WAGES OF SPECIAL GROUPS OF WORKERS.** Apprentices and learners shall receive not less than seventy-five (75%) of the applicable minimum wage rate prescribed herein.

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

All qualified handicapped workers shall receive the full amount of the minimum wage rate in this Order pursuant to R.A. 7277 (*The Magna Carta for Disabled Persons*).

**Section 10. EXEMPTIONS.** The following establishments may be exempted from the applicability of this Wage Order upon application with and as determined by the Board in accordance with NWPC Guidelines No. 02, Series of 2007:

- a. Retail/service establishments regularly employing not more than ten (10) workers;
- b. Distressed establishments;
- c. New business enterprises; and
- d. Establishments adversely affected by calamities.

**Section 11. APPEAL TO THE COMMISSION.** Any party aggrieved by this Wage Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of this Order.

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

**Section 13. EFFECTS ON EXISTING WAGE STRUCTURE.** Where the application of the wage increase prescribed in the Order results in distortion in the wage structure within the establishment it shall be corrected in accordance with the procedure under 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 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, issuances, executive orders and/or under any contract or agreement between the workers and employers or employer practices or policies.

**Section 16. PENAL PROVISION.** Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase/allowance/rates in accordance with this Order shall be subject to the penal provisions under R.A. 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 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 REQUIREMENT.** Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2015 and every year thereafter in accordance with the form prescribed by the Commission.

**Section 20. REPEALING CLAUSE.** All orders, issuances, rules and regulations or parts thereof inconsistent with the provisions 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 thereof 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.

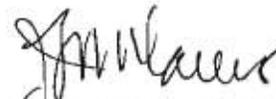
**Section 23. ADVISORY ON PRODUCTIVITY-BASED PAY (PBP).** Pursuant to the Two-Tiered Wage System, the Board shall issue corresponding advisories on Tier-Two or the PBP which shall serve as guidelines for private establishments on the range of productivity bonuses and incentives that an enterprise may provide based on agreement between the workers and the management.

The DOLE Regional Office V shall monitor the implementation of the agreed productivity-based pay.

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

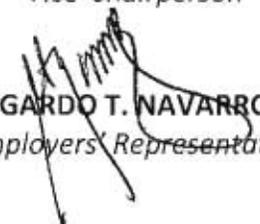
APPROVED: December 5, 2013.

  
**NATHANIEL V. LACAMBRA**  
Regional Director, DOLE V  
Chairperson

  
**JOCELYN L.B. BLANCO**  
Regional Director, DTI V  
Vice-Chairperson

  
**LUIS G. BANUA**  
OIC-Regional Director, NEDA V  
Vice-Chairperson

  
**MARCELO S. TAN**  
Employers' Representative

  
**EDGARDO T. NAVARROZA**  
Employers' Representative

  
**RONALDO C. AFABLE**  
Workers' Representative

**VACANT**  
Workers' Representative



## RULES IMPLEMENTING WAGE ORDER NO. RBV-16

### Rule I - General Provisions

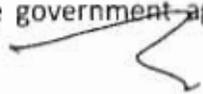
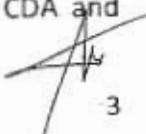
Pursuant to Section 6, Rule IV of the National Wages and Productivity Commission (NWPC) Amended Rules of Procedure on Minimum Wage Fixing and Section 22 of Wage Order No. RB V-16, the following rules are hereby issued for the guidance and compliance by all concerned, to wit:

**Section 1. Title.** This Rules shall be known as the "*Rules Implementing Wage Order No. RBV-16*".

#### Section 2. Definition of Terms.

- a. **Order** means Wage Order No. RB V-16;
- b. **Commission** refers to the National Wages and Productivity Commission;
- c. **Board** refers to the Regional Tripartite Wages and Productivity Board (RTWPB) V ;
- d. **Department** refers to the Department of Labor and Employment;
- e. **Region V** covers the Provinces of Albay, Camarines Norte, Camarines Sur, Catanduanes, Masbate, Sorsogon and the Cities of Iriga, Legazpi, Ligao, Masbate, Naga, Sorsogon and Tabaco;
- f. **Agriculture** refers to farming in all its branches and among others, includes cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural commodity, 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 conjunction with such farming operations but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products;
- g. **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";
- h. **Establishment** refers to an economic unit that 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 but are separately registered with the LGU, SEC, DTI or CDA as the case may be irrespective of their location shall be treated as individual and distinct establishment;
- i. **Barangay Micro Business Enterprise** refers to any business entity registered and issued a Certificate of Authority in accordance with R.A. 9178;

- i. **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;
- j. **Basic Wage** means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost-of-living allowances, profit-sharing payments, overtime and premium payments, 13<sup>th</sup> month pay or other monetary benefits which are not considered as part of nor integrated into the regular salary of the employees on the date the Order became effective;
- k. **Minimum Wage Rate** refers to the lowest wage rate that an employer can pay his workers as fixed by the Board;
- l. **Wage Distortion** means a situation where the application of the wage increase prescribed in a Wage Order, results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.
- m. **Retail Establishment** refers to an entity principally engaged in the sale of goods to end-users for personal or household use. A retail establishment that regularly engages in wholesale activities loses its retail character;
- n. **Service Establishment** refers to an entity principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such;
- o. **Distressed Establishment** refers to an establishment which meet the criteria enumerated in Section 3 of National Wages and Productivity Commission (NWPC) Guidelines No. 02, Series of 2007 or the Amended Rules on Exemption from Compliance with the Prescribed Wage Increases/Cost of Living Allowances Granted by the Regional Tripartite Wages and Productivity Boards;
- p. **Paid-up Capital** refers to the total amount of shareholder capital that has been paid by shareholders;
- q. **Capital** refers to paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships;
- r. **Capital Impairment** refers to the diminution of capital due to accumulated losses;
- s. **Stockholders' Equity** refers to the residual interest in the assets of an entity that remains after deducting its liabilities. It is total assets minus total liabilities. It is the same as equity and net worth;
- t. **Full Accounting Period** refers to a period of twelve (12) months of one year of business operations;
- u. **Interim Period** refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year);
- v. **Deficit** refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, divided distributions, prior period adjustments and other capital adjustments;

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- x. **Total Assets** refers to things of value owned by the business such as cash, machines, building and land which can be measured or expressed in money terms;
- y. **Net Loss** refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues;
- z. **Financial Statement** refers to a written report which quantitatively describes the financial health of a company. This includes the following: balance sheet, income statement, statement of changes in equity, cash flow statement and notes to financial statement;
- aa. **Stock Corporation** refers to one organized for profit and issues shares of stock to its members.
- bb. **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;
- cc. **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 profits among themselves or for the exercise of a profession;
- dd. **Single Proprietorship** refers to a business unit owned and controlled by only one person;
- ee. **Cooperative** is an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable contributions to the capital required, patronizing their products and services and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles (RA 9520, amending RA 6938 known as The Cooperative Code of the Philippines);
- ff. **Quasi-banks** refers to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas;
- gg. **Conservatorship** refers to a remedy resorted to by the Monetary Board in case a bank or quasi-bank is in a state of continuing inability or unwillingness to maintain condition of liquidity deemed adequate to protect the interests of the depositors and creditors. A conservator is appointed to manage the establishment on order to restore its viability;
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- hh. **Receivership/Liquidation** refers to a remedy resorted by the Monetary Board in case a bank or quasi-bank is (a) unable to pay its liabilities as they become due in the ordinary course of business; (b) has insufficient realizable assets as determined by the Bangko Sentral ng Pilipinas to meet its liabilities; (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has willfully violated a cease and desist order under Sec. 37 that has become final involving acts or transactions which amount to fraud or dissipation of the assets of the institution;
- ii. **Under Corporate Rehabilitation** refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction;
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- jj. **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, CDA and Mayor's Office; and
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kk. **Establishments Adversely Affected by Natural Calamity** refers to establishments in an area declared by a competent authority to be under a state of calamity. The natural calamities, such as earthquakes, lahar flow, typhoons, volcanic eruptions, fire floods and similar occurrences must have occurred within six (6) months prior to the effectivity of the Order.

## Rule II - The New Minimum Wage Rates

**Section 1. New Minimum Wage Rates.** Upon the effectivity of the Wage Order, the daily minimum wage rates of workers and employees in the private sector shall be as follows:

Sector / Industry	Minimum Wage Under Wage Order No. RBV-15	Basic Wage Increase	New Minimum Wage Rates
<b>A. NON-AGRICULTURE</b>			
<b>A.1. Establishments</b>			
-Employing more than ten (10) workers	252.00	8.00	<b>P260.00</b>
-Employing not more than ten (10) workers	228.00	8.00	<b>P236.00</b>
<b>A.2. Cottage/Handicraft</b>	228.00	8.00	<b>P236.00</b>
<b>B. AGRICULTURE</b>	228.00	8.00	<b>P236.00</b>

**Section 2. Basis of Minimum Wage Rates.** The new minimum wage rates prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

**Section 3. Productivity-based Wages.** In order to sustain the rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement gain-sharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

**Section 4. Creditable Wage Increase.** Wage increases granted by an employer within three (3) months before the effectivity of the Order shall be credited as compliance herewith. Where the wage increases granted are less than that prescribed under the Order, the employer shall pay the difference.

Anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employees shall not be credited as compliance herewith.

Benefits derived from productivity gain-sharing schemes shall not be credited as compliance.

**Section 5. Application to Private Educational Institution.** In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2013-2014 shall be considered as compliance with the increase set forth herein; provided that if such increase is less than the prescribed adjustment, the employer shall pay the difference in the School Year 2014-2015.

Private educational institutions, which have not increased their tuition fees for the School Year 2013-2014, may defer compliance with the provisions of this Order until the beginning of School Year 2014-2015.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2014-2015.

**Section 6. Workers Paid by Results.** All workers paid by results, including those who are on piecework, "takay", "pakyaw", or task basis, shall receive not less than the applicable minimum wage rates prescribed under the Order for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

**Section 7. Application to Contractors.** In the case of contracts for construction projects and for security and janitorial services, the new minimum wage rates shall be borne by the principals or clients of the constructions/service contractors and the contracts shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

**Section 8. Wages of Special Groups of Workers.** Apprentices and learners shall receive not less than seventy-five percent (75%) of the applicable minimum wage rate prescribed herein.

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

All qualified handicapped workers shall receive the full amount of the minimum wage rate in the Order pursuant to R.A. 7277 (*The Magna Carta for Disabled Persons*).

**Section 9. 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:

$$\begin{array}{l} \text{Equivalent} \\ \text{Monthly} \\ \text{Rate (EMR)} \end{array} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 393.50 \text{ days}}{12}$$

Where 393.50 days:

298	Days	-	Ordinary working days
24	Days	-	11 regular holidays x 200%
67.60	Days	-	52 rest days x 130%
3.90	Days	-	3 special days x 130%
393.50	Days	-	Total equivalent number of days

- B. For those who do not work but are considered paid on rest days, special days and regular holiday:

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

Where 365 days:

298	Days	-	Ordinary working days
52	Days	-	Rest days/Sundays

12	Days	-	Regular Holidays
3	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:

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

Where 313 days:

298	Days	-	Ordinary working days
12	Days	-	Regular Holidays
3	Days	-	3 Special days (if worked) x 130%
313	Days	-	Total equivalent number of days

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

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

Where 261 days:

246	Days	-	Ordinary working days
12	Days	-	Regular Holidays
3	Days	-	3 Special days (if worked) x 130%
261	days	-	Total equivalent number of days

**Section 10. Mobile and Branch Workers.** The prescribed minimum wage rates of workers, who by the 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 11. Transfer of Personnel.** The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to other regions with higher wage rates shall be entitled to the minimum wage rates applicable therein.

**Section 12. Appeal to the Commission.** Any party aggrieved by the Wage Order may file an appeal with the Commission through the Board within ten (10) calendar days from its publication. 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 13. Effect 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 to employees affected by the Order of the corresponding minimum wage rates, in the event such Order is affirmed.

### Rule III - Exemption

**Section 1. Exemptible Establishments** - The following establishments may be exempted from the applicability of the Order upon application with and as determined by the Board, in accordance with the NWPC Guidelines No. 02, Series of 2007.

- Retail/service establishments regularly employing not more than ten (10) workers;
- Distressed establishments;

- c) New business enterprises; and
- d) Establishments adversely affected by natural calamities.

**Section 2. Criteria for Exemption** – The following criteria shall be used to determine whether the applicant-establishment is qualified for exemption:

**A. Retail/Service Establishments Regularly Employing Not More Than Ten (10) Workers**

Exemption may be granted to retail/service establishment when:

1. It is engaged in the retail sale of goods and/or services to end users for personal or household use.
2. It is regularly employing not more than ten (10) workers regardless of status, except the owner/s, for at least six (6) months in any calendar year.

**B. Distressed Establishments**

1. For Corporations/Cooperatives

a. Full Exemption

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

b. Partial Exemption

- b. 1. When the deficit as of the last full accounting period immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the paid-up capital for the same period.

c. Conditional Exemption

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

2. For Single Proprietorships/Partnerships

a. Full Exemption:

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

b. Partial Exemption

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

c. Conditional Exemption

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

1. For Non-stock, Non-profit Organizations

a. Full Exemption

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

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

c. Conditional Exemption

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

2. 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 is under the 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.

3. Establishments Under Corporate Rehabilitation

Exemption may be granted to corporations, partnerships and associations under corporate rehabilitation when there is an order from a court of competent jurisdiction that it is under rehabilitation as provided in Section 6 Rule IV of the Interim Rules of Procedure on Corporate Rehabilitation (2000).

### C. New Business Enterprises

Exemption may be granted to New Business Enterprises established within two (2) years from effectivity of the Order, classified under any of the following:

1. Agricultural establishments whether plantation or non-plantation.
2. Establishments with total assets after financing of five million pesos (P5,000,000.00) and below.

### D. Establishments Adversely Affected by Natural Calamities

1. The establishment must be located in an area declared by competent authority as under a state of calamity.
2. The natural calamities, such as earthquakes, lahar flow, typhoons, volcanic eruptions, fire, floods and similar occurrences, must have occurred within six (6) months prior to the effectivity of the Order.
3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as of the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnerships and single proprietorships and fund balance/members' contribution in the case of non-stock non-profit organizations.

Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.

4. Where necessary, the Board or its duly-authorized representative shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

**Section 3. Application for Exemption and Documentary Requirements** – For all categories of exemption, proof of notice of filing of the application to the President of the Union/contraction party if one is organized in the establishment, or if there is no union, a copy of the circular giving general notice of the filing of the application to all the workers in the establishment is required. The proof of notice, which may be in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

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

An application may be filed with the appropriate Board by the owner/manager or duly authorized representative of an establishment in person or by registered mail. The date of mailing shall be the date of filing. Applications for all categories shall be under oath and accompanied by complete supporting documents and must be filed not later than seventy five (75) days from publication of the approved Implementing Rules. In the case of new business enterprises, applications shall be filed not later than sixty (60) days from the date of registration. No further extension for filing and submission of the required documents shall be allowed.

The following documents shall be submitted together with the application for exemption:

- A. Retail/service establishments regularly employing not more than ten (10) workers

1. Affidavit from employer stating the following:

- a. It is a retail/service establishment.
- b. It is regularly employing not more than ten (10) workers for at least six months in any calendar year.

2. Business permit for the current year from the appropriate government agency.

B. Distressed establishments

1. For corporations, cooperatives, single proprietorship, partnerships, non-stock, non-profit organizations

a. Full or partial Exemption

a.1. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last two (2) full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriate government agency

b. Conditional Exemption

b.1. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last full accounting period and interim quarterly financial statement/s for the period immediately preceding the effectivity of the Order

b.2. To confirm the grant of conditional exemption, audited financial statements for the last full accounting period, stamp received by the appropriate government agency, to be submitted within 30 days from the lapsed of the one-year exemption period

2. For Banks and Quasi-banks

Certification from Bangko Sentral ng Pilipinas that it is under receivership/liquidation

3. For Establishments Under Corporation Rehabilitation

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

C. New Business Enterprises

1. Affidavit from employer regarding the following:

- 1.1 Principal economic activity;
- 1.2 Date of registration with the appropriate government agency;
- 1.3 Amount of total assets.

2. Certificate of registration from the appropriate government agency.

D. Establishments adversely affected by natural calamities

1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:

- 1.1 Date and type of calamity,

- 1.1 Amount of losses/damages suffered as a direct result of the calamity,
- 1.2 List of properties damaged/lost together with estimated valuation,
- 1.3 For properties that are not insured, a statement that the same are not covered by insurance;

- 
2. Copies of insurance policy contracts covering the properties damaged, if any;
  3. Adjuster's report for insured properties, were applicable; and
  4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped "received" by the appropriate government agency.

**Section 4. Duration and Extent of Exemption** - A full exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3 of NWPC Guidelines No. 02, Series of 2007.

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

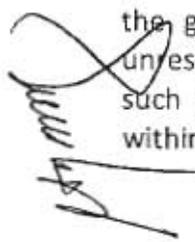
**Section 5. Effect of Filing of Application for Exemption** - Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be duly notified. Pending final resolution of the said application, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

**Section 6. Effect of Disapproved Application for Exemption** - In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage increase as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

**Section 7. 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.

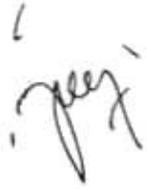
No second motion for reconsideration shall be entertained in any case. The decision of the Board shall be final and executory unless appealed to the Commission.

#### Rule IV - Special Provisions



**Section 1. Effect on Existing Wage Structure.** Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortions 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 disputes shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute is 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 there from shall be settled through the National Conciliation and Mediation Board (NCMB) and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relation Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.



The pendency of a dispute arising from wage distortion shall not in any way delay the applicability of any increase prescribed in 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 subject of enforcement proceedings under Article 128 of the Labor Code, as amended.

 **Section 3. Conduct of Inspection by the Department.** The Department shall conduct inspections of establishments, as often as necessary, to determine whether the workers are paid the prescribed wage rates, allowances and other benefits granted by law, any Wage Order or employer practices or policies. 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. In the case of non-unionized establishments, a worker representing the workers in the said company will 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.

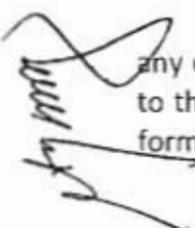
**Section 4. Non-diminution of Benefits.** Nothing in the Order and this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and the employers or employer practices or policies.

**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 increase 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.

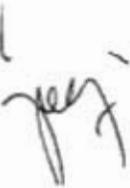
If the violation is committed by a corporation, trust or firms, partnership, association or any entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director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

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

**Section 7. Freedom to Bargain.** The Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

 **Section 8. Reporting Requirements.** Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2015 and every year thereafter in accordance with the form prescribed by the Commission.

**Section 9. Repealing Clause.** All orders, issuances, rules and regulations on wage, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

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

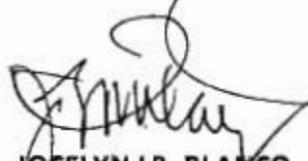
**Section 11. Advisory on Productivity-based Pay (PBP).** Pursuant to the Two-Tiered Wage System, the Board shall issue corresponding advisories on Tier-Two or the PBP which shall serve as guidelines for private establishments on the range of productivity bonuses and incentives that an enterprise may provide based on agreement between the workers and the management.

**Section 12. Effectivity of Rules.** This Rules shall take effect upon the effectivity of the Wage Order.

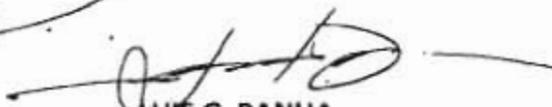
APPROVED: December 5, 2013.



**NATHANIEL V. LACAMBRA**  
Regional Director, DOLE V  
Chairperson



**JOCELYN LB. BLANCO**  
Regional Director, DTI V  
Vice-Chairperson



**LUIS G. BANUA**  
OIC-Regional Director, NEDA V  
Vice-Chairperson



**MARCELO S. TAN**  
Employers' Representative



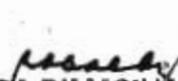
**EDGARDO T. NAVARROZA**  
Employers' Representative



**RONALDO C. AFABLE**  
Workers' Representative

**(VACANT)**  
Workers' Representative

Approved this 20th day of January, 2014.



**ROSALINDA DIMAPILIS-BALDOZ**  
Secretary  
Department of Labor and Employment