

Republic of the Philippines
Department Of Labor And Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region V, Legaspi City

WAGE ORDER NO. RB 05-2

PROVIDING FOR THE INTEGRATION OF FOURTEEN PESOS (P 14.00) COST OF LIVING ALLOWANCE UNDER WAGE ORDER NO. RB 05-01 PLUS THREE PESOS (P 3.00) OR A TOTAL OF SEVENTEEN PESOS (P 17.00) INCREASE IN THE EXISTING STATUTORY MINIMUM WAGE IN THE REGION.

The Regional Tripartite Wages and Productivity Board of Region V recognizing the diminished and eroded purchasing power of the working sector, the need to generate employment opportunities, the viability of business and industry, the countryside development objectives of the government and adhering to the spirit of tripartism and mutual respect towards achieving industrial peace and harmony within the Region acted by consensus on the matter of wage adjustment to provide the workers and their families with a decent standard of living and to help them cope up with the recent increases in the cost of living.

NOW, Therefore, by the 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 V hereby issues this Wage Order:

SECTION 1. Upon the effectivity of this Wage Order, all covered employees and workers in the private sector shall be granted an across the board increase of Seventeen Pesos (P 17.00) per day.

SECTION 2. The amount of Seventeen Pesos (P 17.00) across the board increase which shall be integrated into the daily minimum wage in the region shall consist of the Fourteen Pesos (P 14.00) ECOLA as mandated under Wage Order RBO5-01 plus an additional amount of Three Pesos (P3.00).

SECTION 3. In the case of the private educational institutions, the share of the covered workers and employees in the increase of the tuition fees for the school year 1991 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 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.

The following establishments may also be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations:

1. Retail/Service establishments regularly employing not more than ten (10) workers;
2. Countryside and Barangay Business Enterprises (CBBEs) duly registered pursuant to the provisions of Republic Act 6810;
3. Distressed employers whose capital has been impaired by at least twenty-five percent (25%) during the preceding year;
4. New business enterprises referred to and governed by paragraph 2, Section 15, Chapter I of the Implementing Rules of the Republic Act 6727.

The Regional Board has the option to grant full or partial exemption to such establishments, 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 non-compliance with this Wage Order shall be deferred pending resolution of the application for exemption by the Regional Board.

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

SECTION 5. In the case of contracts for construction projects and for security, janitorial and similar services prescribed wage increase for 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 increase the construction/service contractor shall be jointly and severally liable with the principal or clients.

SECTION 6. All workers paid by result, including those who are paid on piecework, takay, pakyaw or task basis shall be entitled to receive the prescribed minimum wage increase per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

SECTION 7. Wage increases granted by an employer or as a result of collective bargaining agreements on or after the effectivity of this Wage Order shall be credited as compliance with the wage increase prescribed herein. Provided that, where such increases are less than the prescribed adjustment, the employer shall pay the difference. Such increases shall not include anniversary wage increases, merit wage increase and those resulting from the regularization on promotion of employees.

SECTION 8. Where the application of the prescribed minimum wage increase prescribed under this Wage Order results in distortions of the wage structure in any establishments, such distortions shall be corrected using the procedure as specified under Article 124 of the Labor Code as amended.

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

SECTION 10. Any employer who refuses or fails to pay the minimum wage increase provided under this Wage Order shall be subject to the penalties specified under Republic Act 6727.

SECTION 11. All covered employers shall report their compliance with this Wage Order on or before January 31, 1992 when they submit an itemized listing of their labor component as required under RA 6727.

SECTION 12. Nothing in this Wage Order and its Implementing Guidelines 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.

SECTION 13. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts thereof shall remain valid and existing.

SECTION 14. 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. 20th day of August, 1991.

(SGD) EDUARDO B. ALAMARES
Worker Representative

(SGD) ADOLFO L. OLIVAN
Employer Representative

(SGD) BENJAMIN B. BASQUIÑAS
Worker Representative

(SGD) LIONSON L. CRIBE
Employer Representative

(SGD) MANUEL G. IMPERIAL
Vice-Chairman

(SGD) VENANCIO S. BACLAGON
Vice-Chairman

(SGD) RICARDO S. MARTINEZ, SR.
Chairman

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Legaspi City

RULES IMPLEMENTING WAGE ORDER NO. RB 05-02

Pursuant to Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 9 of Wage Order No. RB 05-02, 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 - 02;
- b) "Commission" refers to the National Wages and Productivity Commission;
- c) "Board" refers to the Regional Tripartite Wages and Productivity Board in Region V;
- d) "Region V " covers the provinces of Albay, Camarines Norte, Camarines Sur, Catanduanes, Masbate, Sorsogon and the cities of Legaspi, Iriga and Naga;
- e) "COLA" refers to the P 14.00 Cost of Living Allowance as mandated under Wage Order No. RB 05 - 01;
- f) "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 conjunction with such farming operations. This 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) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- i) "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;
- j) "CBBE" refers to Countryside and Barangay Business Enterprise as defined and duly registered under the provisions of RA 6810;
- k) "Distressed Establishments" refer to establishments with capital impairments in the preceding year as may be determined by the Board;

- l) "New Business Enterprises" refer to enterprises, including non-profit institutions, newly registered with the appropriate government agency such as SEC, DTI, CDA and Mayor's Office within the period July 1, 1989 to June 30, 1993;
- m) "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/or whose capitalization does not exceed P 500,000.00;
- n) "Department" refers to the Department of Labor and Employment;
- o) "Basic Wage" means all the 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, 13th month pay or other monetary benefits which are not considered as part of or integrated into the regular salary of the employee on the date this Order became effective;
- p) "Statutory Minimum Wage Rates" refer to the lowest wage rates fixed by law that an employer can pay his worker;
- q) "Minimum Wage Rates" refer to the lowest wage rates that an employer can pay his worker, as fixed by the Board, and which shall not be lower than the applicable statutory minimum wage rates;
- r) "Wage Distortion" means a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employees 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;
- s) "Capitalization" means paid-up capital, in the case of a corporation and invested capital, in the case of a partnership or single proprietorship.

CHAPTER II - WAGE INCREASE

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

Workers in the establishments defined and enumerated in Section 13 hereof may also be exempted from this Order upon application with and as may be determined by the Board in accordance with applicable rules and regulations.

Section 2. Effectivity. This Order takes effect on October 17, 1991, fifteen (15) days after its publication in two (2) newspaper of general circulation in Region V on October 2, 1991.

Section 3. Amount of Minimum Wage Increase. Effective October 17, 1991, the Daily Statutory Minimum Wage Rates of covered wokers and employees in Region V shall be increased by seventeen (P17.00) Pesos.

The amount of Seventeen (P 17.00) Pesos which shall be integrated into the Daily Statutory Minimum Wage Rates shall consist of the Fourteen (P14.00) Pesos COLA as mandated under Wage Order No. RB 05 - 01 plus an additional amount of Three (P 3.00) Pesos.

Section 4. Daily Statutory Minimum Wage Rates. The Daily Statutory Minimum Wage Rates of the workers and employees in the private sector in Region V shall be as follows:

Sector/Industry	Under RA 6727 Effective July 1, 1989	Required Wage Adjustment	Under Wage Order RB05-02 Effective Oct 17, 1991
Non-Agriculture	89.00	17.00	106.00
Agriculture			
Plantation with an annual gross sales of P 5M or more	79.00	17.00	96.00
Plantation with an annual gross sales of less than P5M	74.00	17.00	91.00
Non-Plantation	58.50	17.00	75.50
Cottage/Handicraft			
Employing more than 30 workers	67.00	17.00	84.00
Employing not more than 30 workers	65.00	17.00	82.00
Private Hospitals	85.00	17.00	102.00
Retail/Service Establishments			
<i>Cities with population of more than 150,000</i>			
Employing more than 15 workers	89.00	17.00	106.00
Employing 11 - 15 workers	85.00	17.00	102.00
Employing not more than 10 workers	58.00	17.00	75.00
<i>Municipalities and Cities with population of not more than 150,000</i>			
Employing more than 10 workers	85.00	17.00	102.00
Employing not more than 10 workers	58.00	17.00	75.00
Sugar			
Mills	91.00	17.00	108.00
Agriculture			
Plantation with an annual gross sales of P 5M or more	73.50	17.00	90.50
Plantation with an annual gross sales of less than P 5M	68.50	17.00	85.50
Non-Plantation	58.50	17.00	75.50
<i>Business Enterprises with Capitalization of not more than P500,000 and employing not more than 20 workers</i>			
Non-Agriculture	79.00	17.00	96.00
Agriculture Plantation			
Products other than sugar	69.00	17.00	86.00
Sugar	63.50	17.00	80.50
Private Hospitals	75.00	17.00	92.00
Retail/Service Establishment			
<i>Cities with population of not more than 150,000</i>			
Employing more than 15 workers	79.00	17.00	96.00
Employing 11 - 15 workers	75.00	17.00	92.00
<i>Municipalities and Cities with population of not more 150,000</i>			
Employing more than 10 workers	75.00	17.00	92.00

Section 5. Basis of Minimum Wage Rates. The Statutory 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 6. Creditable Wage Increase.

a) Wage increases granted by an employer or as a result of collective bargaining agreements signed and ratified not earlier than 1 August 1991 shall be credited as compliance with the wage increases prescribed under this Order. Where the wage increase granted is less than the prescribed adjustment under the Order, the employer shall pay the difference.

b) Anniversary wage increases provided for in collective bargaining agreement, merit increases and those resulting from the regularization or promotion of employees shall not be credited as compliance thereto.

Section 7. Workers Paid by Result.

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

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

Section 8. Wages of Special Groups of Workers. Wages of apprentices, learners and handicapped workers shall in no case be less than seventy-five percent (75%) of the applicable statutory minimum wage rates.

All recognized learnership and apprenticeship agreements entered into before October 17, 1991 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increases prescribed under the Order.

Section 9. Application to Contractors. In the case of contracts of construction projects and for security, janitorial and similar services, the prescribed wage increase shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed as amended accordingly. In the event, however, that the principal or client fails to pay the prescribed increase, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 10. Application to Private Educational Institutions. In the case of private educational institutions, the share of the covered workers and employees in the increase of tuition fees for school year 1991-1992 shall be credited as compliance with the increase prescribed herein, where their share is less than the prescribed wage increase, the employer shall pay the difference.

Section 11. Mobile and Branch Workers. The statutory 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 the workers working in branches or agencies of establishments in or outside Region V shall be those applicable in the place where they are stationed.

Section 12. 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 where such Region has a lower minimum wage rate. A worker transferred to a Region with higher wage rates shall be entitled to the minimum wage rates applicable therein.

Section 13. Exemption.

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

- 1) Retail/Service establishments regularly employing not more than ten (10) workers;
- 2) Distressed employers whose capital has been impaired by at least twenty five per cent (25%) during the preceding year;
- 3) Countryside Barangay Business Enterprises (CBBEs) duly registered pursuant to RA 6810; and
- 4) New business enterprises referred to and governed by paragraph 2, Section 15, Chapter I of the Implementing Rules of the Republic Act No. 6727.

b) The Regional Board has the option to grant full or partial exemption to such establishments, the allowed maximum period for exemption being one (1) year.

c) Whenever the application for exemption has been filed with the Board, action by the Regional Office of the Department of Labor and Employment on any complaint for alleged non-compliance with the Wage Order shall be deferred pending resolution of the application for exemption by the Board.

d) 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 Order plus interest of one percent (%) per month retroactive to the effectivity of this Order.

Section 14. Wage Distortion. Where the application of any wage increase resulting from a Wage Order issued by the Board results in distortions in the wage structure within an establishment, the employer and the union shall negotiate to correct the distortions using the grievance procedure under the collective bargaining agreement. If it remains unresolved, it shall be decided through voluntary arbitration, unless otherwise agreed by the parties in writing.

Where there are no collective bargaining agreements or recognized labor unions, the employer and the workers shall endeavor to correct the wage distortions. Any dispute arising there from shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after ten (10) calendar days of conciliation, it 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 a wage distortion shall not in any way delay the applicability of any wage increase prescribed pursuant to the provision of law or Wage Order.

Section 15. Non-Diminution of Benefits. Nothing in this Order and in this implementing rules shall be construed to reduce any existing wage rates, allowances and benefits of any from under existing laws, decrees, issuances, Executive Orders, and/or under any contract or agreement between the workers and employees.

Section 16. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase prescribed under the Wage Order shall be filed with the Regional Office of the Department and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 17. Conduct of Inspection by the Department. The Department shall conduct inspection of establishments as often as necessary to determine whether the workers are paid the prescribed wage rates and other benefits granted by law or any wage order. In the conduct of inspection in unionized companies, Department Inspectors shall always be accompanied by the President or other responsible officer of the recognized bargaining unit or of any interested unit. In the case of the non-unionized establishments, the worker representing the workers in said company shall accompany the Inspector.

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

Section 18. Report of Compliance. All covered employers shall report their compliance with the Order in this Rules in the manner and form prescribed under PD No. 851 on or before January 31, 1992 when they submit an itemized listings of their labor component as required under RA 6727.

Section 19. 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 20. Penal Provision. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay any of the prescribed increase or adjustments in the wage rates in accordance with the Order shall be subject to the penalties specified under RA 6727.

Section 21. Repealing Clause. If any provision or part of this Order and this Rules is declared unconstitutional or illegal, the other provisions or parts shall remain valid. The provisions 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 and effect.

Section 22. Effectivity. This Rules shall take effect on October 17, 1991.

Done in the City of Legaspi, Province of Albay, Republic of the Philippines this 17th day of October, 1991.

(SGD) BENJAMIN B. BASQUIÑAS
Workers Representative

(SGD) ADOLFO L. OLIVAN
Employers Representative

(SGD) EDUARDO B. ALAMARES
Workers Representative

(SGD) LIONSON L. CRIBE
Employers Representative

(SGD) MANUEL G. IMPERIAL
Vice Chairman

(SGD) VENANCIO S. BACLAGON
Vice Chairman

(SGD) RICARDO S. MARTINEZ, SR.
Chairman

Approved this 17th day of October 1991.

RUBEN D. TORRES
Secretary