

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
National Wages and Productivity Commission
REGIONAL TRIPARTIT WAGES AND PRODUCTIVITY BOARD
Region V, Legaspi City

WAGE ORDER NO. RB05-03-A
Extending the Grant of Cost of Living Allowance (COLA)

WHEREAS, a Regional Tripartite Consultation was conducted on December 6, 1994 at Legaspi City specifically for the purpose of reviewing Wage Order RB05-03;

WHEREAS, on the basis of said consultation, it was gathered that the regional socio-economic conditions warrant the extension of said Wage Order;

WHEREAS, on December 12, 1994, the Board duly convened and deliberated on the issues and recommendations as gathered during the said consultation;

WHEREAS, it was the consensus of the Board to extend the effectivity of Wage Order RB05-03;

NOW, THEREFORE, by virtue of its power and authority under RA 6727, the Regional Tripartite Wages and Productivity Board No. V hereby issues this supplemental Wage Order:

SECTION 1. Upon the effectivity of this Wage Order, all workers and employees in the private sector in Region V shall continue to receive a daily Cost-of-Living Allowance (COLA) as follows: a) for the cities of Naga and Legaspi, SEVENTEEN PESOS AND FIFTY CENTAVOS (P17.50), b) for the city of Iriga and the municipalities of Tabaco, Daraga and Pili, FIFTEEN PESOS AND FIFTY CENTAVOS (P15.50), and c) for all other municipalities in the Bicol Region, TEN PESOS (P10.00).

SECTION 2. In the event, however, that any supervening condition occurs, such as extraordinary increase in prices of basic goods and services, either the management sector or the labor sector may demand a review of this Wage Order.

SECTION 3. This Wage Order shall be governed by all applicable provisions under Wage Order RB05-03 and its Implementing Rules.

SECTION 4. This Wage Order shall take effect December 1, 1994.

APPROVED: 12 December 1994, Legaspi City

(SGD) BENJAMIN B. BASQUIÑAS
Workers Representative

(SGD) LIONSON L. CRIBE
Employers Representative

(SGD) EDUARDO B. ALAMARES
Workers Representative

(SGD) ADOLFO L. OLIVAN
Employers Representative

(SGD) MARLENE CA. P. RODRIGUEZ
Vice Chairman

(SGD) MONINA LILY A. CLAVERIA
Vice Chairman

(SGD) PEDRO P. CAÑO
Chairman

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RULES IMPLEMENTING WAGE ORDER NO. RB05-03-A

Pursuant to Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 3 of Wage Order No. RB05-03-A, 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. RB05-03-A;
- 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 Cost of Living Allowance;
- f) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- g) "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;
- h) "Distressed Establishments" refer to establishments which meet the criteria enumerated in Section 3 (3) of NWPC Guidelines No. 1;
- i) "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 registered on July 1, 1993 to December 1, 1995;
- j) "Department" refers to the Department of Labor and Employment;
- k) "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 - COST OF LIVING ALLOWANCE

Section 1. Coverage. The COLA prescribed under the Order shall apply to all workers and employees in the private sector in the 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 7 thereof 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. Amount of COLA. a) Effective December 1, 1994, all covered workers and employees in Region V shall continue to receive a daily Cost of Living Allowance as follows:

P 17.50 - in the cities of Legaspi and Naga

P 15.50 - in the municipalities of Daraga, Tabaco, Pili and city of Iriga

P 10.00 - in all other areas in the Bicol Region

b) The allowance prescribed under the Order shall be granted for days actually worked and 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 and night shift differential pay.

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

d) Services rendered for more or less than the regular eight (8) hours worked per day, shall entitle the worker/employee to the COLA proportionate to the number of actual hours 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 COLA granted under the Order regardless of the number of hours worked.

Section 3. Creditable Period. a) Any allowances and/or similar benefits granted by an employer or as a result of a collective bargaining agreements from September 1994 up to the effectivity of the Order shall be credited as compliance of the COLA prescribed therein. Where the allowance and/or benefit granted is less than the prescribed adjustment under the Order, the employer shall pay the difference.

b) In the case of private educational institution, the share of the covered workers and employees in the increase of tuition fees for six (6) months or specifically after June 1, 1994 shall be credited as compliance with the Order. Where the share of the workers or employees is less than the prescribed COLA, the employer shall pay the difference.

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

Section 4. Workers Paid by Results. a) All workers paid by results, including those who are paid on piecework, "takay", "pakyaw", or task basis, shall receive the amount 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 5. Application for Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed COLA 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 client.

Section 6. Mobile and Branch Workers.

The COLA received by workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

Section 7. Exemption. a) The following establishments may be exempted from compliance with the COLA prescribed under the 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 establishments as defined in the Revised Guidelines on Exemption;
3. New Business enterprises as herein defined.

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 an 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 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 the Order plus interest of one percent (1%) per month retroactive to the effectivity of the Order and the Supplemental Order.

Section 8. Non-Diminution of Benefits. Nothing in the Order, and in this implementing rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, Executive Orders and/or under any contract or agreement between the workers and employees.

Section 9. Complaints for Non-Compliance. Complaints for non-compliance with the COLA prescribed under the Order shall be filed with the Regional Office of the Department and shall be subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 10. 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 COLA 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 by any authorized representative of the union. In the case of non-unionized establishment, the worker's representative 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 inspector.

Section 11. Report Compliance. All covered employers shall report their compliance with the Order and the Rules in the manner and form prescribed under PD No. 851 on or before January 31, 1995 when they submit an itemized listings of their labor component as required under RA 6727.

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 proceedings before the Board.

Section 13. Penal Provision. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay any of the prescribed increase or adjustment in the wage rates in accordance with the Order shall be subject to the penalties specified under RA 6727.

Section 14. Repealing Clause. If any provision or part of the 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 15. Effectivity. This Rules shall take effect on December 1, 1994.

APPROVED: Legaspi City, 16 February 1995.

(SGD) BENJAMIN B. BASQUIÑAS
Workers Representative

(SGD) LIONSON L. CRIBE
Employers Representative

(SGD) EDUARDO B. ALAMARES
Workers Representative

(SGD) ADOLFO L. OLIVAN
Employers Representative

(SGD) MARLENE CA P. RODRIGUEZ
Vice Chairman

(SGD) MONINA LILY A. CLAVERIA
Vice Chairman

(SGD) PEDRO P. CAÑO
Chairman

APPROVED this 21st day of August 1995, subject to the notation below.

(SGD.) JOSE S. BRILLANTES
Acting Secretary

Add the phrase "series of 1992" in Section 1h, Chapter I and delete the phrase "and the Supplemental Order" Section 7d, Chapter II.