

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
Regional Tripartite Wages and Productivity Board
Region V

**WAGE ORDER RB05-04
PROVIDING FOR COLA ADJUSTMENTS AND
ITS INTEGRATION TO THE MINIMUM WAGE**

WHEREAS, the Board, *motu proprio* conducted sectoral and industry levels consultation-dialogue to specifically review the prevailing minimum wage levels and determine the region's socio-economic conditions;

WHEREAS, the result of the consultation-dialogue revealed that the socio-economic conditions have been adversely affected by the oil-price hikes rice crises. E-VAT and natural calamities thus warrant wage adjustment;

WHEREAS, there is a need to provide the workers and their families the means to cope with the increasing cost of living allowance and in consideration of the growth of business and industry;

WHEREAS, the Board recognizes the rights of the workers to just share in the fruits of their labor while enhancing employment opportunities and allowing business and industry reasonable returns on investment;

WHEREAS, as a result of the Regional Tripartite Consultation on Wage Issues conducted on December 5, 1995 and after thorough deliberations on the matter, the Board acted by consensus in adjusting the Cost of Living Allowance (COLA) and integrating it to minimum wage rates.

NOW THEREFORE, by virtue of the power and authority vested under RA 6727 known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Region V hereby issues this Wage Order:

Section 1. COVERAGE. The adjusted COLA prescribed under this Order shall apply to all employees and workers in the private sector.

Section 2. AMOUNT OF COLA. Effective February 1, 1996, the COLA provided for under Wage Order RB05-03-A shall be adjusted as follows:

I.	Naga City and Legazpi City	27.00	
II.	Daraga, Pili, Tabaco and Iriga City		24.00
III.	All other areas in the region	17.00	

Section 3. INTEGRATION OF COLA TO THE MINIMUM WAGE. Effective May 1, 1996 the adjusted COLA shall be integrated to the basic minimum wage following the areal classification in Section 2 herein.

Section 4. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTION. The increase in minimum wage rates prescribed in Sections 2 and 3 shall apply to all workers and employees in private educational institutions effective school year 1996-1997, subject, however, to the applicable DECS rules and regulations.

Section 5. EXEMPTIONS. Exempted from the provisions of this Wage Order are household or domestic helpers in the personal service of another, including family drivers.

The following establishments may be exempted from the applicability of this Wage Order upon application with the Board, in accordance with the applicable rules and regulations, to wit:

- a. Retail/Service establishments regularly employing not more than ten workers;
- b. Distressed establishments as defined in the NWPC Revised Guidelines on Exemption;
- c. New business enterprises as defined in the Implementing Rules;
- d. New tourism-related establishments;
- e. Countryside Barangay Business Enterprises; and
- f. Establishments adversely affected by calamities

Whenever an application for exemption has been duly filed with the Regional Board, action on any complaint for alleged non-compliance with this Wage Order shall be deferred pending resolutions of the application for exemption by the Regional Board.

In the event the application for exemption is not granted, the employees in such establishments shall be paid the appropriate compensation or amount 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 6. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increases in the 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 wage rates, the construction/service contractors shall be jointly and severally liable with the principal.

Section 7. PAYMENT BY SPECIAL ARRANGEMENTS. All workers paid by result, including those who are paid on piece work, takay, pakyaw or task basis, shall receive not less than the prescribed wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 8. APPLICATION TO SPECIAL GROUP OF WORKERS. All recognized learnership and apprenticeship agreements shall be considered automatically modified insofar as their wage clauses are concerned to reflect the prescribed wage rates.

Section 9. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the prescribed increase under this Order results in distortions in the wage structure within an establishment, such distortions shall be resolved using the procedure specified under Art. 124 of the Labor Code of the Philippines as amended.

Section 10. PENAL PROVISION. Any person, corporation, trust, firm, partnership, association, or entity which refuses or fails to pay the prescribed adjustments in the wage rates made in accordance with this Order shall be punished pursuant to Sec. 12 Art. 127 of RA 6727.

Section 11. 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 12. IMPLEMENTING RULES. The Board shall promulgate the necessary rules and regulations to implement the provisions of this Order.

Section 13. NON-DIMINUTION OF BENEFITS. Nothing in this Order shall be construed to reduce any existing wage rates, allowances and other benefits of any from under existing laws, decrees, issuances, executive order and/or under any contract or agreement between workers and employers.

Section 14. REPEALING/SEPARABILITY CLAUSE. All laws, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Order, are hereby repealed, amended or modified accordingly. If any provision or part of this Order, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Order or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 15. EFFECTIVITY. This Wage Order shall take effect fifteen (15) days after publication.

APPROVED: February 8, 1996, Legazpi City, Philippines.

(SGD) BENJAMIN B. BASQUIÑAS
Labor Representative

(SGD) LIONSON L. CRIBE
Management Representative

(SGD) EDUARDO B. ALAMARES
Labor Representative

(SGD) ADOLFO L. OLIVAN
Management Representative

(SGD) MONINA LILY A. CLAVERIA
Vice Chairman

(SGD) MARLENE CA P. RODRIGUEZ
Vice Chairman

(SGD) MA. GLENDA A. MANALO
Chairman

Republic of the Philippines
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Region V

RULES IMPLEMENTING WAGE ORDER NO. RB05-04

Pursuant to Section 5. Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 11 of Wage Order No. RB05-04, the following rules are hereby issued for guidance and compliance by all concerned:

CHAPTER I - DEFINITION OF TERMS

Section 1. DEFINITION OF TERMS. As issued in these rules:

- a) "Order" means Wage Order No. RB05-04;
- 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 Legazpi, Iriga and Naga;
- e) "COLA" refers to the adjusted Cost of Living Allowance;
- 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) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use or "tingi".
- 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) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines on Exemption.
- k) "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 two (2) years from the effectivity of the Order;

- l) "New tourism-related establishments" refer to tourism-related establishments as accredited by the Department of Tourism and duly registered with SEC or any other concerned agencies within two (2) years from effectivity of the Order;
- m) "Countryside and Barangay Business Enterprise (CBBE)" refers to an establishments as defined under RA 6810;
- n) "Establishment adversely affected by calamities" refers to establishments in areas declared by the President of the Philippines as under state of calamities;
- o) "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 with total assets of P1,500,000.00, pursuant to SMED Council Resolution No. 3, Series of 1995;
- p) "Department" refers to the Department of Labor and Employment;
- q) "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, 13th 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 this Order became effective.
- r) "Minimum Wage Rates" refer to the lowest wage rate 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.
- s) "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 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.
- t) "Capitalization" means paid-up capital, in the case of a corporation and total invested equity, in the case of a partnership or single proprietorship.

CHAPTER II - COLA/WAGE ADJUSTMENT

Section 1. COVERAGE. The adjusted COLA prescribed under the Order prescribed under the Orders shall apply to all workers and employees in the private sector in Region V except, household and domestic helpers and persons in the personal service of another, including family drivers.

Section 2. AMOUNT OF COLA. Effective February 1, 1996 the COLA provided for under Wage Order RB05-03-A shall be adjusted as follows:

I.	Naga City and Legazpi City	27.00
II.	Daraga, Pili, Tabaco, and Iriga City	24.00
III.	All other areas in the Region	17.00

Section 3. INTEGRATION OF COLA TO THE MINIMUM WAGE.

- a. Effective May 1, 1996, the adjusted COLA shall be integrated to the basic minimum wage following the areal classification in Section 2 herein. Workers earning above the minimum wage shall continue to receive the adjusted COLA.
- b. The minimum Wage Rates of the workers and employees in the private sector in Region V after the integration of the COLA shall be as follows:

Revised Table of Applicable Minimum Wage Rates of Workers and Employees in the Private Sector in Region V

Sector/Industry	Existing Basic Minimum Wage	COLA Effective Feb. 1, 1996	Integrated COLA to the minimum wage effective May 1, 1998
A. Non-Plantation	P 106.00	P 27.00 24.00 17.00	P 133.00 130.00 123.00
B. Agriculture			
B.1 Plantation with an annual gross sales of P5M or more	96.00	27.00 24.00 17.00	123.00 120.00 113.00
B.2 Plantation with an annual gross sales of less than P5M	91.00	27.00 24.00 17.00	118.00 115.00 108.00
B.3 Non-Plantation	75.50	27.00 24.00 17.00	102.50 99.50 92.50
C. Cottage/Handicraft			
C.1 Employing more than 30 workers	84.00	27.00 24.00 17.00	111.00 108.00 101.00
C.2 Employing not more than 30 workers	82.00	27.00 24.00 17.00	109.00 106.00 99.00
D. Private Hospitals	102.00	27.00 24.00 17.00	129.00 126.00 119.00

E. Retail/Service Establishments			
E.1 Cities with population of more than 150,000			
Employing more than 15 workers	106.00	27.00 24.00 17.00	133.00 130.00 123.00
Employing 11 to 15 workers	102.00	27.00 24.00 17.00	129.00 126.00 119.00
Employing not more than 10 workers	75.00	27.00 24.00 17.00	102.00 99.00 92.00

E.2 Municipalities & cities with population of not more than 150,000			
Employing more than 10 workers	102.00	27.00	129.00
		24.00	126.00
		17.00	119.00
Employing not more than 10 workers	75.00	27.00	102.00
		24.00	99.00
		17.00	92.00
F. Sugar			
F.1 Mills	108.00	27.00	135.00
		24.00	132.00
		17.00	125.00
F.2 Agriculture			
Plantation with an annual gross sales of P5M or more	90.50	27.00	117.50
		24.00	114.50
		17.00	107.50
Plantation with an annual gross sales of less than P5M	85.50	27.00	112.50
		24.00	109.50
		17.00	102.50
G. Business Enterprise with capitalization of not more than P500,000 and employing not more than 20 workers			
G.1 Non-Agriculture	96.00	27.00	123.00
		24.00	120.00
		17.00	113.00
G.2 Agriculture Plantation Products other than sugar	86.00	27.00	113.00
		24.00	110.00
		17.00	103.00
G.3 Sugar	80.50	27.00	107.00
		24.00	104.00
		17.00	97.00
G.4 Private Hospital	92.00	27.00	119.00
		24.00	116.00
		17.00	109.00
G.5 Retail/Service Establishment			
Cities with population of more than 150,000			
Employing more than 15 workers	96.00	27.00	123.00
		24.00	120.00
		17.00	113.00
Employing 11-15 workers	92.00	27.00	119.00
		24.00	116.00
		17.00	109.00
Municipalities and cities with population of not more than 150,000			

Employing more than 10 workers	92.00	27.00	119.00
		24.00	116.00
		17.00	109.00

c) Basis of Minimum Wage Rates. The 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 4. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. The adjusted COLA and minimum wage rates prescribed in the Order shall fully apply to all workers and employees in the private educational institutions effective SY 1996-1997 subject, however, to the applicable Department of Education Culture and Sports rules and regulations.

Section 5. EXEMPTION.

a) The following establishments as herein defined may be exempted from compliance with the COLA and wage adjustments increase prescribed under the Order upon application with and as determined by the Board in accordance with the Revised Guidelines on Exemption:

1. Retail/Service establishments regularly employing not more than ten (10) workers;
2. Distressed establishments;
3. New business enterprises;
4. New tourism-related establishments;
5. Countryside and Barangay Business Enterprises;
6. Establishments adversely affected by calamities.

b) The Regional Board has the option to grant full or partial exemption with respect to the amount and the period of exemption but in no case shall it exceed one (1) year from the effectivity of the Order.

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 this Order plus interest of one (1) percent per month retroactive to the effectivity of this Order.

Section 6. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increase in the wage rates of the workers 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 the client fails to pay the prescribed wage rates, the construction/service contractors shall be jointly and severally liable with the principal or client.

Section 7. PAYMENT BY SPECIAL ARRANGEMENT. All workers paid by results, including those who are paid 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 a day, or a proportion thereof for work of less than the normal working hours.

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.

a) Mobile and Branch Workers. The minimum wage rates of workers who by the nature of their work has 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 in or outside Region V shall be those applicable in the place where they are stationed or in Region V whichever is higher.

b) 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 such transfer where such Region has a lower minimum wage rate. A workers transferred to a Region which higher wage rates shall be entitled to the minimum wage rates applicable therein as provided for in Section 14 of the Rules Implementing RA 6727.

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

All recognized learnership and apprenticeship agreements entered into before February 1, 1996 shall be considered as automatically modified insofar as their wage clause are concerned to reflect the increases prescribed under the Order.

Section 9. EFFECTS ON EXISTING WAGE STRUCTURE. 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 worker shall endeavor to correct the wage distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after ten (10) calendar days of conciliation, it shall be referred to the appropriate branch of the National Labor Relations Commission. 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 in the Order.

Section 10. 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 11. 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 as provided for in Article 126 of RA 6727.

Section 12. IMPLEMENTING RULES.

a) Complaints for Non-Compliance. Complaints for non-compliance with the wage rates prescribed under 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 and 129 of the Labor Code, as amended.

b) 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 inspector shall always be accompanied by the president or other responsible officer of the recognized bargaining unit or of any interested union. In case of non-unionized establishments, a worker representing the workers in the said company shall accompany the inspector.

The worker's 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.

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

Section 13. NON-DIMINUTION OF BENEFITS. Nothing in the Order and in these 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 employers.

Section 14. REPEALING/SEPARABILITY CLAUSE. All laws, order, issuances, rules and regulations or parts thereof inconsistent with the provisions of these rules are hereby repealed, amended or modified accordingly. If any provision or part of these Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of these Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 15. EFFECTIVITY. These Rules shall take effect on February 1, 1996.

Done in the City of Legazpi, Province of Albay, Republic of the Philippines this 26th day of February 1996.

(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) MARLENE CA. P. RODRIGUEZ
Vice Chairman

(SGD) MONINA LILY A. CLAVERIA
Vice Chairman

(SGD) MA. GLENDA A. MANALO
Chairman