

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

**WAGE ORDER RB05-05
 SETTING THE NEW MINIMUM WAGE RATES IN THE REGION**

WHEREAS, the Regional Wage Board, with the policy of providing workers with safety net protection against unduly low wages, recognizes the need to review the current minimum wage levels, hence the conduct motu proprio by the Board, of sectoral consultations and meetings;

WHEREAS, on November 11, 1996 and November 26, 1996 the Federation of Free Workers (FFW) and the National Mines and Allied Workers Union-Trade Union Congress of the Philippines (NAMAWU-TUCP) filed their separate petitions demanding for across-the-board daily wage increases of P50.00 and P36.00, respectively;

WHEREAS, both petitions were anchored on the recent oil price increases and its effects to the socio-economic conditions;

WHEREAS, the Board, likewise, received on December 18, 1996 and January 11, 1997, position papers from the management of the United Paragon Mining Corporation (UPMC) and the Naga City Chamber of Commerce and Industry opposing the petitions for wage increase filed by the labor sector;

WHEREAS, in response to the petitions filed, public hearings were conducted in the six (6) provinces of the region;

WHEREAS, after taking into consideration the significant economic indicators and the arguments presented by both labor and management sectors on the wage issue, the Board decided to adjust the prevailing minimum wage levels to enable the workers to cope with the rising cost of living without impairing the viability of business and industry, help cushion the impact of the fuel price increases and restore the purchasing power of the peso;

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. AMOUNT OF MINIMUM WAGE. Upon the effectivity of this Order, all workers receiving the minimum or above the minimum wage prescribed under Wage Order RB05-04 shall receive an across-the board daily wage increase of TEN PESOS (P10.00) except the following:

Sector	Legazpi City And Naga City	Pili, Tabaco, Daraga and Iriga City	All Other Areas
A.1. Establishments			
Employing 11 – 15 workers	135.00	130.00	125.00
Employing not more than 10 workers	110.00	105.00	100.00

A.2. Cottage/Handicraft			
Employing 20 – 30 workers	120.00	115.00	110.00
Employing less than 20 workers	115.00	110.00	105.00

B. Agriculture			
Plantation	130.00	125.00	120.00
Non-Plantation	110.00	105.00	100.00

Workers receiving less than the prescribed minimum wage shall be adjusted to the daily minimum wage rates prescribed herein.

Section 2. **COVERAGE** The minimum wage rates prescribed under this Order shall apply to all employees in the private sector in the region except household or domestic helpers and persons in the personal service of another, including family drivers.

Section 3. **APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** The increase in the minimum wage rates prescribed in this Order shall fully apply to all workers and employees in private educational institutions effective school year 1997-1998, subject, however, to the applicable DECS rules and regulations.

Section 4. **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 5. **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 6. **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 7. **CREDITABILITY CLAUSE.** Any wage increase, allowances and/or similar benefits granted by an employer or as a result of collective bargaining agreements that became effective three (3) months before the effectivity of this Order or thereafter, shall be credited as compliance with this Order. Where the wage increase granted is 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 thereto.

Section 8. **EXEMPTIONS.** The following establishments as defined in the Implementing Rules 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;
- c. New business enterprises ;
- 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 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 Wage 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: January 18, 1997, Naga City, Philippines.

(SGD) LUDOVICO S. RAVIZ
Labor Representative

(SGD) ADOLFO L. OLIVAN
Management Representative

(SGD) EDUARDO B. ALAMARES
Labor Representative

(SGD) LIONSON L. CRIBE
Management Representative

(SGD) MONINA LILY A. CLAVERIA
Vice Chairman

(SGD) MARLENE CA P. RODRIGUEZ
Vice Chairman

(SGD) DOMINADOR B. MEDROSO, JR.
Chairman

Republic of the Philippines
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RULES IMPLEMENTING WAGE ORDER NO. RB05-05

Pursuant to Section 5. Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 12 of Wage Order No. RB05-05, 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. RB05-05;
- 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) "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 Legazpi, Iriga and Naga;
- 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) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use.
- j) "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.
- k) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in the NWPC Guidelines No. 01, Series of 1996.

- l) “New Business Enterprise” 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 LGU, SEC, DTI, or CDA.
- 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 capitalization of P1,500,000.00, pursuant to SMED Council Resolution No. 3, Series of 1995;
- p) “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.
- q) “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.
- 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 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.
- s) “Capital” means paid-up capital at the end of the last full accounting period in the case of corporations and in the case of partnerships and single proprietorships, total invested capital at the beginning of the accounting period under review.

CHAPTER II - MINIMUM WAGE RATES

Section 1. AMOUNT OF MINIMUM WAGE. Effective February 5, 1997, the daily minimum wage rates of workers in the region shall be as follows:

Sector	Legazpi City And Naga City	Pili, Tabaco, Daraga And Iriga City	All Other Areas
A. Non-Agriculture	143.00	140.00	133.00
Except the following:			
A.1 Establishment			
Employing 11 – 15 workers	135.00	130.00	125.00
Employing 20 – 30 workers	133.00	130.00	123.00
A.2 Cottage/Handicraft			
Employing more than 30	125.00	120.00	115.00

workers			
Employing 20 – 30 workers	120.00	115.00	110.00
Employing less than 20	115.00	110.00	105.00
workers			
B. Agriculture			
Plantation	130.00	125.00	120.00
Non-Plantation	110.00	105.00	100.00

Workers receiving less than the prescribed minimum shall be adjusted to the daily minimum wage rates prescribed herein.

Section 2. **COVERAGE.** The increase in the minimum wage rates prescribed in this Order shall apply to all workers and employees in the private sector receiving the minimum wage prescribed under Wage Order RB05-04 except household or domestic helpers and persons in the personal service of another, including family drivers.

Section 3. **APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** The increase in the minimum wage rates prescribed in this Order shall apply to all workers and employees in the private educational institutions receiving the minimum wage prescribed under Wage Order RB05-04 effective school year 1997-1998, subject, however, to the applicable DECS rules and regulations.

Section 4. **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.

Section 5. **APPLICATION TO 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 5, 1997 shall be considered as automatically modified insofar as their wage clause are concerned to reflect the prescribed wage rates.

Section 6. **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.

Section 7. **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.

Section 8. TRANSFER OF PERSONNEL. The transfer of personnel from one place to another shall not be a valid ground for the reduction of the wage rate being enjoyed by the worker prior to such transfer; however, upon the transfer of personnel to another place with higher minimum rate, he shall enjoy the corresponding/applicable minimum wage.

Section 9. CREDITABILITY CLAUSE. Any wage increase, allowances and/or similar benefits granted by an employer or as a result of collective bargaining agreements that became effective three (3) months before the effectivity of this Order or thereafter shall be credited as compliance with this Order. Where the wage increase granted is 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 thereto.

Section 10. EXEMPTIONS. The following establishments maybe exempted from the applicability of the Order upon application with the Board, in accordance with the NWPC Guidelines No. 01, Series of 1996.

- A. Retail/Service establishments regularly employing not more than ten (10) workers, provided the following requirements are submitted together with the application, to wit:
 1. Affidavit from the employer regarding its principal economic activity and the number of employees in such establishment;
 2. Business permit for the current year from the Office of the Municipal Mayor, SEC, DTI or CDA registration.

- B. Distressed establishments as defined under Section 3A of the Rules on Exemption provided the following requirements are submitted together with the application, to wit:
 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;
 2. Audited interim quarterly financial statements (together with the Auditor's opinion and the notes thereto) for the period immediately preceding the effectivity of the Order.

- C. New business enterprises established within two (2) years from effectivity of the Order with total assets of not more than Five Million Pesos (P5,000,000.00) provided, that the following requirements shall be submitted together with application, to wit:
 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. Countryside Barangay and Business Enterprise provided the following documents shall be submitted together with the application, to wit:
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.
- E. Establishments adversely affected by natural calamities provided the following requirements are submitted together with the application, to wit;
1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
 - a. Date and type of calamity,
 - b. Amount of losses/damages suffered as a direct result of the calamity,
 - c. List of properties damaged/lost together with estimated valuation,
 - d. 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. Police and barangay captain's report,
 4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped "received" by the appropriate government agency.

For all categories of exemption, proof of notice of filing of the application to the President of the Union/contracting 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 also 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 other documents to support the application for exemption.

An application in three (3) legible copies 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 filed not later than sixty days (60) days from publication of the approved Implementing Rules. In the case of new business enterprises and new tourism-related establishments, applications shall be filed not later than sixty (60) days from date of registration.

The application shall be under oath and accompanied by complete supporting documents as enumerated in the Rules. In the case of an application with incomplete supporting documents, the applicant shall be notified to complete the same within ten (10) days from receipt of the notice; otherwise, the application shall be dismissed.

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

A full exemption of one (1) year shall be granted to all categories of establishments except distressed establishments in which the Board may grant partial exemption. In the event that applications for exemption are not granted, workers and employees of the establishment whose application has been denied, shall receive the appropriate adjustment in compensation due them as provided for in the Order plus interest of one percent (1%) per month retroactive to the effectivity of the Order.

Section 11. 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 12. PENAL PROVISION. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase under the Order shall be punished by a fine not less 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 Act shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees. Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposed under this Act.

If the violation is committed by a corporation, trust or firm, 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 13. 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 14. 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 of Labor and Employment having jurisdiction over the workplace and shall be subject of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended.

Section 15. 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.

Section 16. REPORT OF COMPLIANCE. All covered employers shall report their compliance with the Order and this Rules on or before January 31 of every year when they submit an itemized listings of their labor component as required under RA 6727.

Section 17. NON-DIMINUTION OF BENEFITS. Nothing in the Order and in these 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 18. 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 19. EFFECTIVITY. These Rules shall take effect on February 5, 1997.

Done this 5th day of May in Legazpi City, Philippines.

(SGD) LUDOVICO S. RAVIZ
Workers Representative

(SGD) ADOLFO L. OLIVAN
Employers Representative

(SGD) EDUARDO B. ALAMARES
Workers Representative

(SGD) ANTONIO A. CHANG
Employers Representative

(SGD) MARLENE CA. P. RODRIGUEZ
Vice Chairman

(SGD) MONINA LILY A. CLAVERIA
Vice Chairman

(SGD) DOMINADOR B. MEDROSO, JR.
Chairman