

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

**WAGE ORDER RB05-06**  
**GRANTING COST OF LIVING ALLOWANCE**

WHEREAS, the board, with the end in view of providing a safety net to the lowest paid wage earners against imperfections in the labor market, reviewed the prevailing minimum wage in the region, through a series of consultations;

WHEREAS, during the consultation, a resolution was filed by Pinag-isang Manggagawa ng mga Kooperatiba ng Koryente sa Bikol (PMKK-BIKOL) for an across-the-board increase of P100.00;

WHEREAS, the board, likewise received a resolution from the Naga City Chamber of Commerce and Industry urging the board to maintain a status quo on the wage rates in the Bicol Region;

WHEREAS, the result of the public consultations/workshops conducted revealed that the socio-economic condition in the region have been mildly affected by the recent increase in the transportation fares, the prices of basic goods and services, and the depreciation of the peso and its negative effect to its purchasing power;

WHEREAS, there is a marked increase in interest lending rates brought about by the depreciation of the peso consequently affecting the viability of establishments and the slow down of the level of investments in the region;

WHEREAS, the board, in consideration of, and in connection with the foregoing premises decided to grant a cost-of-living allowance to ensure workers with a standard of living that is necessary to maintain their health, efficiency and general well-being without hampering economic growth.

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 COLA.* Upon the effectivity of this Order, all minimum wage earners in the private sector except those in non-agriculture employing not more than ten (10) workers shall be entitled to a daily cost-of-living allowance of *TWENTY PESOS* (P20.00) except for Catanduanes and Masbate which shall be *SIXTEEN PESOS* (P16.00) to be given in a staggered basis effective as follows:

	All Provinces	Catanduanes/Masbate
February 5, 1998	P10.00	P8.00
July 1, 1998	P10.00	P8.00
Total	P20.00	P16.00

*Section 2. COVERAGE* The COLA prescribed under this Order shall apply to all minimum wage earners in the private sector except household or domestic helpers, persons in the personal

service of another, including family drivers and those in non-agriculture employing not more than ten (10) workers.

*Section 3. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.* The COLA prescribed in this Order shall fully apply to all workers and employees in private educational institutions effective school year 1998-1999 whether the tuition fees are increased or not. Where the wage increase/allowances/similar benefits granted by an employer is less than that prescribed under this Order, the employer shall pay the difference.

*Section 4. APPLICATION TO CONTRACTORS.* In the case of contracts for construction projects and for security, janitorial and similar services allowed under Department Order No. 10, Series of 1997 of the Secretary of Labor and Employment the prescribed COLA 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 COLA, 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 to reflect the prescribed COLA.

*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 the prescribed COLA per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

*Section 7. MOBILE AND BRANCH WORKERS.* The COLA of workers who by nature of their work has to travel shall be those applicable in the domicile or head office of the employer.

The COLA 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 COLA.

*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/allowances/similar benefits/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 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; and
- d. 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 11. PENAL PROVISION.* Any person, corporation, trust, firm, partnership, association, or entity which refuses or fails to pay the prescribed COLA made in accordance with this Wage Order shall be punished pursuant to Sec. 12 Art. 127 of RA 6727 as amended by RA 8188.

*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 proceeding before the Board.

*Section 13. IMPLEMENTING RULES.* The Board shall promulgate the necessary rules and regulations to implement the provisions of this Order.

*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 Art. 128 and 129 of the Labor Code, as amended.

*Section 15. NON-DIMINUTION OF BENEFITS.* Nothing in this order shall be construed to reduce any existing wage rates, allowances and other benefits of any form under existing laws, decrees, issuances, executive order and/or under any contract or agreement between workers and employers.

*Section 16. 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 17. EFFECTIVITY.* This Wage Order shall take effect on February 5, 1998.

APPROVED: December 22, 1997, Legazpi City, Philippines.

(SGD) LUDOVICO S. RAVIZ  
*Labor Representative*

(SGD) ADOLFO L. OLIVAN  
*Management Representative*

\* EDUARDO B. ALAMARES  
*Labor Representative*

(SGD) ANTONIO A. CHANG  
*Management Representative*

(SGD) MONINA LILY A. CLAVERIA  
*Vice Chairman*

(SGD) MARLENE CA P. RODRIGUEZ  
*Vice Chairman*

DOMINADOR B. MEDROSO, JR.  
*Chairman*

\* *Resigned as of October 13, 1997*

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

**RULES IMPLEMENTING WAGE ORDER NO. RB05-06**

Pursuant to Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 13 of Wage Order No. RB05-06, 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 these rules:

- a) "Order" means Wage Order No. RB05-06;
- 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 firm 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) “Establishment adversely affected by calamities” refers to establishments which meet the criteria enumerated in Section 3D of the NWPC Guidelines No. 01, Series of 1996;
- n) “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 whose capitalization does not exceed P1,500,000.00, pursuant to SMED Council Resolution No. 3, Series of 1995;
- o) “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 this Order became effective.
- p) “Minimum Wage Rate” refers 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.
- q) “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.
- r) “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 - COST OF LIVING ALLOWANCE

*Section 1. AMOUNT OF COLA.* Upon the effectivity of the Order, all minimum wage earners in the private sector except those in non-agriculture employing not more than ten (10) workers shall be entitled to a daily cost-of-living allowance of TWENTY PESOS (P20.00) except for Catanduanes and Masbate which shall be SIXTEEN PESOS (P16.00) to be given in a staggered basis effective as follows:

	All Provinces	Catanduanes/Masbate
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*Section 2. COVERAGE.* The COLA prescribed in the Order shall apply to all minimum wage earners in the private sector except household or domestic helpers and persons in the personal

service of another, including family drivers and those in non-agriculture employing not more than ten (10) workers.

*Section 3. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.* The COLA prescribed in the Order shall apply to all workers and employees in the private educational institutions effective school year 1998-1999, subject to applicable DECS/CHED rules and regulations. When the wage increase/allowance/similar benefits granted by an employer is less than that prescribed under this Order, the employer shall pay the difference.

*Section 4. APPLICATION TO CONTRACTORS.* In the case of contracts for construction projects and for security, janitorial and similar services allowed under Department Order No. 10, Series of 1997 of the Secretary of Labor and Employment, the prescribed COLA 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 COLA, 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 entered into before the effectivity of the Order shall be considered as automatically modified to reflect the prescribed COLA.

*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 the prescribed COLA per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

*Section 7. MOBILE AND BRANCH WORKERS.* The COLA 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 COLA 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/allowances being enjoyed by the worker prior to such transfer; however, upon the transfer of personnel to another place with higher minimum rate/allowances he shall enjoy the corresponding/applicable minimum wage/COLA.

*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/allowances/similar benefits 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 outside export processing zones within two (2) years from effectivity of the Order classified either as establishments with total assets of five million pesos (P5,000,000.00) and below or agricultural establishments whether plantation or non-plantation, provided, that the following requirements 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.
  
- D. 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 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 simple interest of one percent (1%) per month retroactive to the effectivity of the Order.

*Section 11. 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 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 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 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. 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 14. 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 15. 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 16. 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 17. 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 18. EFFECTIVITY.* These Rules shall take effect on February 5, 1998.

Done this 19th January in Legazpi City, Philippines.

(SGD) LUDOVICO S. RAVIZ  
Workers Representative

(SGD) ADOLFO L. OLIVAN  
Employers Representative

\* 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

Approved this 4<sup>th</sup> day of February 1998.

(SGD) CRESENCIANO B. TRAJANO

Acting Secretary

\* *Resigned October 13, 1997*