

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Regional Board No. VI
Iloilo City

WAGE ORDER NO. RBVI-12

SETTING NEW MINIMUM WAGE RATES

WHEREAS, the Regional Board is mandated to make a continuing study and review the applicable minimum wage rates in the Region;

WHEREAS, the Bukluran ng Manggagawang Pilipino (BMP) and Partido ng Manggagawa (PM), Wage Increase Solidarity – Negros (WINS – Negros) and the consolidated labor organizations namely: Democratic Association of Labor Organizations (DALO), National Congress of the Phils. (NACUSIP), United Sugar and Allied Services (USFO), Trade Union of Filipino Workers (TUFW), Workers Amalgamated Union of the Phils. (WAUP), LAKAS-PAFLU, Commercial and Agro-Industrial Labor Organization (CAILO), and ALARM filed petitions for a P65.00, P125.00, and P200.00 per day wage increase for workers in the Region, respectively;

WHEREAS, after a series of public hearing and consultations on June 23, 2004 at Bacolod City, July 6, 2004 at Iloilo City, July 7, 2004 at Roxas City, July 8, 2004 at San, Jose, Antique, and July 14, 2004 at Kalibo, Aklan, with concerned sectors, there is a consensus to provide workers and their families with immediate relief measures, in addition to the efforts of the government to hold down prices of basic goods to cushion the impact of recent adjustments in the value of the Peso, prices of petroleum products, and transportation fares;

WHEREAS, economic realities demand the cooperation of labor and management in order to survive and become globally competitive and endeavor to increase their productivity through concerted efforts and action;

WHEREAS, as determined by the Board, several industries/sectors need special attention to make them feasible and competitive considering the position of the Region in both local, regional and global market, notably the sugar industry, cottage and handicraft, schools, and the retail and service sectors;

NOW THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Region VI hereby issues this Wage Order:

Section 1. Upon effectivity of this Wage Order, the daily basic wage of the minimum wage earners in the Region shall be as follows:

INDUSTRY/SECTOR	Wage Rates under WO # RBVI-12
I. SUGAR INDUSTRY	
A. Mills	200.00
B. Agriculture	
b.1. Plantation with capitalization of:	
b.1.a. More than P3 Million	170.00
b.1.b. Not more than P3 Million	150.00
b. 2. Non-Plantation	145.00
II. NON-AGRICULTURE	
A. Industrial/Commercial - with capitalization of:	
More than P3 Million	190.00
More than P1 Million but less than P3 Million	180.00
Not more than P1 Million	165.00
B. HOSPITALS	190.00
C. COTTAGE/HANDICRAFT *	140.00
D. RETAIL/SERVICE	
A. Employing more than 10 workers	
1. Highly urbanized cities with the following capitalization and employment size	
a. More than P3 Million employing:	
More than 15 workers	190.00
11 - 15 workers	180.00
b. More than P1 Million but not more than P3 M	170.00
c. Not more than P1 Million	160.00
2. Component cities and municipalities and with the following capitalization:	
a. More than P3 Million	175.00
b. More than P1 Million but not more than P3 Million	170.00
c. Not more than P1 Million	160.00
B. Employing not more than 10 workers *	140.00
III. AGRICULTURE	
A. Plantation	
1. With capitalization of more than P3 Million and with annual gross sales of:	
P5 Million or more	170.00
Less than P5 Million	165.00
2. With capitalization of more than P1 Million but not more than P3 Million w/ annual gross sales of:	
P5 Million or more	165.00
Less than P5 Million	150.00
3. With capitalization of not more than P1 Million	150.00
B. Non-Plantation	145.00

* See Section I-A

Section 1-A. For Retail/Service employing not more than 10 workers; and workers in Cottage/Handicraft, the minimum wage of P140.00 shall take effect on August 16, 2004 and P145.00 on April 16, 2005.

Section 2. This Order shall not apply to household or domestic workers and persons in the personal service of another, including family drivers, and workers of registered Barangay Micro-Business Enterprises with Certificates of Authority.

Section 3. Upon application with and as determined by the Regional Board, the following establishments maybe exempted from the minimum wage increase provided in this Order for not more than one (1) year subject to applicable guidelines issued by the Commission:

- a. Retail and Service establishments regularly employing not more than 10 workers;
- b. Distressed establishments; and
- c. New business enterprises.

Section 4. In the case of private educational institutions, shortfall, should there be any, shall be covered in school year 2005-2006.

Section 5. All other provisions in previous wage laws and orders are hereby adopted and shall be specified in the rules implementing this Order.

Section 6. Any party aggrieved by this Order may file an appeal to the Commission through the Regional Board within ten (10) calendar days from the publication of this Order.

Section 7. Any employer who fails to pay the minimum wage as specified in this Order shall be subject to the penalties specified under RA No. 6727 as amended by RA 8188.

Section 8. All orders, rules and regulations inconsistent with the provisions of this Order are hereby repealed or modified accordingly. If any section of this Order is declared unconstitutional or illegal, the other sections shall remain valid.

Section 9. The Regional Board shall prepare the implementing rules of this Order subject to the approval of the Secretary of Labor and Employment.

Section 10. This Wage Order shall take effect on August 16, 2004.

APPROVED this 28th day of July, 2004, Iloilo City.

(Sgd.) ROBERTO G. ABELLO
EMPLOYERS' REPRESENTATIVE

On leave
NATALIO V. SITJAR
WORKERS' REPRESENTATIVE

Vacant
EMPLOYERS' REPRESENTATIVE

I dissent
(Sgd.) WENNIE G. SANCHO
WORKERS' REPRESENTATIVE

(Sgd.) DOMINIC P. ABAD
REGIONAL DIRECTOR, DTI
VICE CHAIRMAN

(Sgd.) TRUMAN T. CAINGLET
REGIONAL DIRECTOR, NEDA
VICE CHAIRMAN

(Sgd.) CARLOS L. BOTEROS
REGIONAL DIRECTOR, DOLE
CHAIRMAN

RULES IMPLEMENTING WAGE ORDER NO. RBVI-12

RULE 1. GENERAL PROVISIONS

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 9 of Wage Order No. RBVI-12, the following rules are hereby issued for guidance and compliance by all concerned:

Section 1. TITLE

This Rule shall be known as the “Rules Implementing Wage Order No. RB VI-12”

Section 2. DEFINITION OF TERMS. AS BASED IN THIS RULES

- a. *Order* means Wage Order No. RBVI-12;
- b. *Department* means the Department of Labor and Employment;
- c. *Commission* means the National Wages and Productivity Commission;
- d. *Board* means the Regional Tripartite Wages and Productivity Board of Region VI;
- e. *Regional Office* refers to the office of the Department of Labor and Employment in the Region;
- f. *Region VI* covers the provinces of Aklan, Antique, Capiz, Guimaras, Iloilo and Negros Occidental including their respective component cities and the highly urbanized cities of Bacolod and Iloilo;
- g. *Agriculture* includes farming in all its branches and among others, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodities, aquaculture, the raising of livestock and poultry, 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 or processing of sugar, coconut, abaca, tobacco, pineapple or other farm products, marine and aquaculture products;
- h. *Plantation agricultural enterprise* is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as *non-plantation agricultural enterprise*;
- i. *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 whose total assets does not exceed P3M (in conformity SMED Resolution No. 1, Series of 2003) regardless of previous registration with the defunct NACIDA;
- j. *Establishment* refers to an economic unit which engages in one predominantly one kind of economic activity at a single fixed location;

For purposes of determining eligibility for exemption, establishments under the same owners but separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative development Authority (CDA) as in the case of irrespective of their location, shall be treated as individual and distinct establishment;

- k. **Retail establishment** is one primarily engaged in the sale of goods to end-users for personal or household use. A retail establishment that regularly engages in wholesale activities loses its retail character.
- l. **Service establishment** is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such;
- m. **Distressed establishment** refers to an establishment which meets the criteria enumerated in Section 3A of the NWPC Guidelines No. 1, Series of 1996;
- n. **Wage** paid to any employee shall mean remuneration or earnings, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, commission basis, or other method of calculating the same which is payable by an employer to an employee under written or unwritten contract of employment for work or done or for services rendered or to be rendered, and includes the fair and reasonable value, as determined by the Secretary of Labor, of board, lodging or other facilities customarily furnished by the employer to an employee.
- 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 allowance, profit, sharing of investments premium payments, 13th -month pay, and other monetary benefits, which are not considered as part of integrated into the regular salary;
- p. **COLA or ECOLA** remuneration or earnings paid by an employer to an employee for services rendered which in nature and intended to meet an increase in cost of living and is not considered part of the basic;
- q. **Minimum Wage** is the lowest wage that an employer can pay his workers as prescribed by law or a wage may consist of the basic wage only or the sum of basic wage and COLA or ECOLA;
- r. **New business enterprise** refers to an establishment including non-profit institutions, newly-registered with the appropriate government agency such as Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI), Cooperative Development Authority (CDA) and Mayor's Office within two (2) years from the effectivity of the Wage Order;
- s. **Capital** refers to paid-up capital at the end of the last full accounting period in the case of corporations, the total invested capital at the beginning of the period under review in the case of partnerships and single proprietorship or the fund balance/members' contribution at the beginning of the period under review in case of non-stock non-profit organizations;
- t. **Household or domestic helper** refers to a worker who administers strictly to the personal needs of his employer. This includes family drivers.

- u. **Wage distortion** means a situation where an increase in prescribed wage rates

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 differentiations.

RULE II. NEW MINIMUM WAGE RATES

Section 1. AMOUNT AND EFFECTIVITY

Effective August 16, 2004, all private sector workers and employees in Region VI shall be paid the minimum wage rates of:

INDUSTRY/SECTOR	Wage Rates under WO # RBVI-12
I. SUGAR INDUSTRY	
A. Mills	200.00
B. Agriculture	
b.1. Plantation with capitalization of:	
b.1.a. More than P3 Million	170.00
b.1.b. Not more than P3 Million	150.00
b. 2. Non-Plantation	145.00
II. NON-AGRICULTURE	
A. Industrial/Commercial - with capitalization of:	
More than P3 Million	190.00
More than P1 Million but less than P3 Million	180.00
Not more than P1 Million	165.00
B. HOSPITALS	190.00
C. COTTAGE/HANDICRAFT *	140.00
D. RETAIL/SERVICE	
A. Employing more than 10 workers	
1. Highly urbanized cities with the following capitalization and employment size	
a. More than P3 Million employing:	
More than 15 workers	190.00
11 - 15 workers	180.00
b. More than P1 Million but not more than P3 M	170.00
c. Not more than P1 Million	160.00
2. Component cities and municipalities and with the following capitalization:	
a. More than P3 Million	175.00
b. More than P1 Million but not more than P3 Millic	170.00
c. Not more than P1 Million	160.00
B. Employing not more than 10 workers *	140.00
III. AGRICULTURE	
A. Plantation	
1. With capitalization of more than P3 Million and with annual gross sales of:	
P5 Million or more	170.00
Less than P5 Million	165.00
2. With capitalization of more than P1 Million but not more than P3 Million w/ annual gross sales of:	
P5 Million or more	165.00
Less than P5 Million	150.00
3. With capitalization of not more than P1 Million	150.00
B. Non-Plantation	145.00

** See Section I-A*

(Section 1.A – For retail/service employing not more than 10 workers; and workers in cottage/handicraft, the minimum wage of P140.00 shall take effect on August 16, 2004 and P145.00 on April 16, 2005.)

Section 2. COVERAGE

The new minimum wage rates shall cover all workers in the Region regardless of their position, designation or status and the method by which their wages are paid, including learners and apprentices, except household and domestic helpers or persons in the personal service of another and workers of registered Barangay Micro-business Enterprises with certificates of authority..

Section 3. BASIS OF MINIMUM WAGE RATES

The minimum wage rates prescribed herein shall be for normal working hours which shall not exceed eight hours work day.

Section 4. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS

In the case of private educational institutions, the share of the covered workers and employees in the increase in tuition fees for school year 2004-2005 shall be considered as compliance with the wage rates prescribed in this Order. However, any shortfall in the wage rates set forth in the Order shall be covered starting school year 2005-2006.

Private educational institutions which did not increase their tuition fees for the school year 2004-2005 may defer compliance with the provisions of the Order until school year 2005-2006.

In any case, all private educational institutions shall implement the wage rates prescribed in the Order starting school year 2005-2006.

Section 5. APPLICATION TO CONTRACTORS.

In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed basic wage for covered workers and employees 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, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 6. WORKERS PAID BY RESULTS.

All workers paid by result, including those who are paid by piece work, “*takay*”, “*pakyaw*” or task basis, shall receive not less than the applicable basic wage 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.

Industries/Establishments currently paying their workers/employees specific unit rates in the different phases of its operations based on time and motion studies previously developed and approved by competent authority, shall, in the absence of a more updated study, continue the practice but shall proportionately adjust the said wage rates with respect to the basic wage of all workers in the Region as mandated under the Order in accordance with its classification therein prescribed.

The adjusted minimum wage rates for workers paid by results shall be computed in accordance with the following steps:

- a) Amount of increase in AMW*
----- x 100 = % increase;
Previous AMW
- b) Existing rate/piece x % increase = Increase in rate/piece;
- c) Existing rate/piece + Increase in rate/piece = Adjusted rate/piece

?? Where AMW is the applicable minimum wage rate.

Section 7. BASIC WAGE OF SPECIAL GROUPS OF WORKERS.

Apprentices and learners shall in no case receive less than 75% of the applicable minimum wage rate prescribed in the Order.

A recognized learnership and apprenticeship agreements entered into before the effectivity of the Order shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the minimum wage rate prescribed under the Order.

Section 8. SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY REGIONAL MINIMUM WAGE RATES.

Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rates:

- a) For those who are required to work everyday including Sundays or rest days, special days and regular holidays:

$$\begin{array}{l} \text{Equivalent} \\ \text{Monthly} \\ \text{Rate (EMR)} \end{array} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 392.80 \text{ days}}{12}$$

Where 392.80 days :

$$\begin{array}{l} 300 \text{ days} - \text{Ordinary working days} \\ 20 \text{ days} - 10 \text{ regular holidays} \times 200\% \\ 2.6 \text{ days} - 1 \text{ regular holiday falling on last Sunday} \\ \quad \quad \quad \text{of August} \times 200\% + (30\% \text{ of } 200\%) \\ 66.30 \text{ days} - 51 \text{ rest days} \times 130\% \\ \underline{3.90 \text{ days}} - 2 \text{ special days} \times 130\% \\ 392.80 \text{ days} - \text{Total equivalent number of days} \end{array}$$

- b) For those who do not work but are considered paid on rest days, special days and regular holiday

$$\text{EMR} = \frac{\text{ADR} \times 365 \text{ days}}{12}$$

Where 365 days:

$$\begin{array}{l} 300 \text{ days} - \text{Ordinary working days} \\ 51 \text{ days} - \text{Rest days} \\ 11 \text{ days} - \text{Regular Holidays} \\ \underline{3 \text{ days}} - \text{Special days} \\ 365 \text{ days} - \text{Total equivalent number of days} \end{array}$$

- c) For those who do not work and are not considered paid on Sundays or rest days:

$$\text{EMR} = \frac{\text{ADR} \times 314 \text{ days}}{12}$$

Where 314 days:

$$\begin{array}{l} 300 \text{ days} - \text{Ordinary working days} \\ 11 \text{ days} - \text{Regular Holidays} \\ \underline{3 \text{ days}} - 3 \text{ Special days (if considered paid; if actually} \\ \quad \quad \quad \text{worked, this is equivalent to 3.9 days)} \\ 314 \text{ days} - \text{Total equivalent number of days} \end{array}$$

- d) For those who do not work and are not considered paid on Saturdays and Sundays or rest days:

$$\text{EMR} = \frac{\text{ADR} \times 262 \text{ days}}{12}$$

Where 262 days:

$$\begin{array}{l} 248 \text{ days} - \text{Ordinary working days} \\ 11 \text{ days} - \text{Regular Holidays} \\ \underline{3 \text{ days}} - 3 \text{ Special days (if considered paid; if actually} \\ \quad \quad \quad \text{worked this is equivalent to 3.9 days)} \end{array}$$

*Note: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them, is included in the **eleven** regular holidays.*

For workers whose rest days do not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

Section 9. MOBILE AND BRANCH WORKERS.

The statutory minimum wage rates of workers, who by 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 workers working in branches or agencies of establishments within the Region shall be those applicable in the place where they are stationed.

Section 10. 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. The workers transferred to the other Regions with higher rates wage rates shall be entitled to the minimum wage rates applicable therein.

Section 11. APPEAL TO THE COMMISSION.

Any party aggrieved by the Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) calendar days from date of filing. The appeal shall be accompanied by a memorandum of appeal, which shall state the grounds relied upon, and the arguments in support of the appeal.

Section 12. EFFECT OF APPEAL.

The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

RULE III. EXEMPTIONS

Section 1. UPON PROPER APPLICATION

Upon Application with and as determined by the Regional Board, the following establishments may be exempted from the minimum wage rate provided in the Order for not more than one (1) year subject to applicable guidelines issued by the Commission:

- a. Retail and service establishments employing not more than ten (10) workers,
- b. Distressed establishments
- c. New business enterprises

Section 2. DOCUMENTS REQUIRED.

The following documents shall be submitted together with three (3) copies of the application which shall be under oath:

For All Categories of Exemption

Proof of notice of filing of the application to the President of the union/contracting

giving general notice of the filing of the application to all workers in the establishment. The proof of notice, which may be translated 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.

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A. For Distressed Establishments

1. For corporations, cooperatives, single proprietorships, partnerships, non-stock non-profit organizations.

1.a. Audited financial statements (together with the Auditor's opinion and 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.

1.b. Audited interim quarterly financial statements (together with the Auditor's opinion and notes thereto) for the period immediately preceding the effectivity of the Order.

Submission of audited interim financial statements shall be in accordance with the following schedule:

EFFECTIVITY DATE OF WAGE ORDER	INTERIM STATEMENTS REQUIRED			
First quarter of year	No interim statements required; only the audited statement for the last two full accounting periods			
Second quarter of year				
Month 1	None; same as first quarter			
Month 2	None; same as first quarter			
Month 3	First quarter audited statement			
Third quarter of year				
Month 1	First quarter audited statement			
Month 2	First quarter audited statement			
Month 3	First & second quarter audited statement			
Fourth quarter of year				
Month 1	Second quarter audited statement			
Month 2	Second quarter audited statement			
Month 3	First, second & third quarter audited statements			

For Banks and Quasi-banks

a. Certification from Bangko Sentral ng Pilipinas that it is under receivership/liquidation.

B. For New Business Enterprises

1. Affidavit from employer regarding the following:

- a. Principal economic activity
- b. Date of registration with appropriate government agency
- c. Amount of total assets

2. Certificate of registration from the appropriate government agency

C. For retail/Service Establishments Employing not more than Ten (10) Workers

1. Affidavit from employer stating the following:

- a. It is a retail/service establishment

- b. It is regularly employing not more than ten (10) workers for at least six months in any calendar year
2. Business Permit for the current year from the appropriate government agency

The Board may require the submission of other pertinent documents to support the application for exemption.

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Section 3. DURATION AND EXTENT OF THE EXEMPTION.

A full exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3 of NWPC Guidelines No. 01, Series of 1996.

However, a partial exemption of 50% with respect to the amount or period of exemption may be granted only in the case of distressed establishments.

Section 4. EFFECT OF FILING OF APPLICATION FOR EXEMPTION

Whenever an application for exemption has been duly filed with the Regional Board, the Regional office of the Department shall be notified. Pending resolution of the said application, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

Section 5. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION.

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 an interest of 1% per month retroactive from the date when the Order became effective.

Section 6. MOTION FOR RECONSIDERATION

An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt of the decision stating the particular grounds upon which the motion is based, copy furnished the other party and the Regional Office of the Department.

No second motion for reconsideration shall be entertained in any case. The decision of the Board shall be final and executory unless appealed to the Commission.

RULE IV. SPECIAL PROVISIONS

Section 1. EFFECT ON EXISTING WAGE STRUCTURE.

Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortions through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such 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, the same shall be referred to the appropriate branch of the National Labor Relations 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 wage distortion shall not in any way delay the applicability of any increase prescribed in the Order.

Section 2. COMPLAINTS FOR NON-COMPLIANCE.

Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

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Section 3. CONDUCT OF INSPECTION BY THE DEPARTMENT.

The Department shall conduct inspections 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 applicable 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 union. In the case of non-unionized establishments, a worker representing the workers in the said company will 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 4. NON-DIMINUTION OF BENEFITS.

Nothing in the Order shall be construed to reduce any existing wage rates or other benefits under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and the employers.

Section 5. PENAL PROVISION.

Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in 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) 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 Order 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 any payment of indemnity shall not absolve the employer from the criminal liability imposable under RA 8188.*

If the violation is committed by a corporation, trust or firm, partnership, association or any other 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 6. 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 Commission or Boards.

The Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

Section 8. REPORTING DOCUMENTS.

Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2005 and every year thereafter in accordance with the form prescribed by the Commission.

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Section 9. REPEALING CLAUSE.

All orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provisions of the Order and these Rules are hereby repealed, amended or modified accordingly.

Section 10. SEPARABILITY CLAUSE.

If any provision or part of the Order and these Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and these Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 11. EFFECTIVITY OF RULES.

These Rules shall take effect on August 16, 2004.

APPROVED. Iloilo City this 9th day of August, 2004.

(Sgd.)
ROBERTO G. ABELLO
EMPLOYERS' REPRESENTATIVE

On leave
NATALIO V. SITJAR
WORKERS' REPRESENTATIVE

Vacant
EMPLOYERS' REPRESENTATIVE

(Sgd.)
WENNIE G. SANCHO
WORKERS' REPRESENTATIVE

(Sgd.)
DOMINIC P. ABAD
REGIONAL DIRECTOR, DTI
VICE CHAIRMAN

(Sgd.)
TRUMAN T. CAINGLET
REGIONAL DIRECTOR, NEDA
VICE CHAIRMAN

(Sgd.)
CARLOS L. BOTEROS
REGIONAL DIRECTOR, DOLE

CHAIRMAN

APPROVED this 31st day of August, 2004.

(Sgd.)

**PATRICIA A. STO. TOMAS
SECRETARY
DEPARTMENT OF LABOR AND EMPLOYMENT**