

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD - VI
Iloilo City

WAGE ORDER No. RB VI-15
PROVIDING FOR THE NEW MINIMUM WAGE RATES

WHEREAS, the Regional Tripartite Wages and Productivity Board- Regional Board VI - Western Visayas (RTWPB-VI) is mandated under R.A. 6727 (The Wage Rationalization Act), to periodically assess the wage rates and conduct continuing studies in the determination of the minimum wage rates applicable in the region or industry;

WHEREAS, the Trade Union Congress of the Philippines (TUCP) filed on April 12, 2007 a petition for a Seventy-Five Pesos (P75.00) per day across-the-board wage increase;

WHEREAS, after due notice to all concerned sectors, the RTWPB-VI conducted consultations with labor and employers sectors on June 26 in Bacolod City; July 3 in Iloilo City, July 4 in San Jose, Antique; July 10 in Roxas City, July 11 in Kalibo, Aklan; and July 12 in Boracay, Malay, Aklan. respectively, and a public hearing on August 29, 2007, in Bacolod City, to determine the propriety of issuing a new wage order;

WHEREAS, after a thorough evaluation of the existing socio-economic conditions of the region, the RTWPB-VI determined the need to provide workers with immediate relief, without impairing business viability by simplifying the wage structure resulting to increases from P13.00 to P41.00 benefiting workers in the lower bracket;

WHEREAS, consistent with the government's policy of achieving higher levels of productivity to promote economic growth and generate employment, and to augment the income of workers, there is a need to build the capacity of business enterprises to be competitive through productivity improvement programs.

NOW THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, the RTWPB-VI hereby issues this Wage Order.

Section 1. SIMPLIFICATION OF WAGE STRUCTURES. The wage structure rationalization/simplification in the region pursuant to NWPC Guidelines No. 01, Series of 2005 (Policy Directions and Program Thrusts: 2006-2010) shall be effected in three (3) stages, as follows:

- a) Upon effectivity of this Wage Order;
- b) On May 1, 2008; and
- c) On September 16, 2008.

The three (3) major industry classifications of Sugar Industry, Non-Agriculture and Agriculture under Wage Order No. RBVI-14 shall be reduced into two (2) which are the Non-Agriculture and Agriculture. The details of the reclassification shall be provided for in the Implementing Rules of this Wage Order. The increases will be effective in three (3) installments for some sectors that have considerable increases.

Section 2. NEW MINIMUM WAGE RATES. a) Upon effectivity of this Wage Order, the new minimum wage rates in the region are as follows:

INDUSTRY/SECTOR	Under W.O. No. RBVI-14	Under W.O. No. RBVI-15		
		Effective 05 Oct 2007	Effective 01 May 2008	Effective 15 Sept 2008
SUGAR INDUSTRY				
Mills	P 235.00	235.00		
Agriculture Plantation with capitalization of:				
More than P3 Million	203.00	203.00		
Not More than P3 Million	185.00	185.00	203.00	
Non-Plantation	180.00	193.00		
NON-AGRICULTURE				
(i.e. Industrial/Commercial)				
With capitalization of:				
More than P3 Million	222.00	235.00		
More than P 1 Million but less than P 3Million	212.00	225.00	235.00	
Not More than P 1 Million	199.00	215.00	225.00	235.00
HOSPITALS	222.00	235.00		
COTTAGE/HANDICRAFT	180.00	193.00		
RETAIL/SERVICE				
Employing more than 10 workers				
Highly urbanized cities with the following capitalization and employment size:				
More than P 3 Million employing:				
More than 15 workers	222.00	235.00		
11- 15 workers	212.00	225.00	235.00	
More than P 1 Million but not more than P3M	203.00	215.00	225.00	235.00
Not More than P 1Million	194.00	209.00	224.00	235.00
Component municipalities and cities and with the following capitalization:				

More than P3 Million	208.00	218.00	228.00	235.00
More than P1 Million but not more than P 3 Million	203.00	215.00	225.00	235.00
Not More than P 1 Million	194.00	209.00	224.00	235.00
Employing not more than 10 workers	180.00	193.00		
AGRICULTURE				
Plantation				
With capitalization of more than P 3 Million & annual gross sales of:				
P5 Million or more	203.00	203.00		
Less than P5 Million	199.00	203.00		
With capitalization of more than P 1 Million but not more than P3 Million with annual gross sales of:				
P5 Million or more	199.00	203.00		
Less than P5 Million	185.00	195.00	203.00	
With capitalization of not more than P1 Million	185.00	195.00	203.00	
Non-Plantation	180.00	193.00		

b) Upon full simplification to take effect on September 16, 2008, the sector/industry classification with the corresponding minimum wage rates shall be as follows:

Sector/Industry	New Minimum Wage Rates
I - Non-Agriculture / Industrial / Commercial	
Employing more than 10 workers	P 235.00
Employing 10 or less workers	P 193.00
II - Agriculture Plantation	P 203.00
Non-Plantation	P 193.00

Section 3. COVERAGE. The wage increase prescribed in this Wage Order shall apply to all minimum wage earners in the private sector in the Region, regardless of their position, designation or status of employment and irrespective of the method by which they are paid.

This Wage Order shall not cover household or domestic helpers; persons in the personal service of another, including family drivers, and workers of duly registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to Republic Act 9178.

Section 4. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed under this Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

Section 5. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the wage increase prescribed in this Order 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 principals or clients fail to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 6. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2007-2008 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2008-2009.

Private educational institutions which have not increased their tuition fees for the School Year 2007-2008 may defer compliance with the increase prescribed herein until the beginning of School Year 2008-2009.

In any case, all private educational institutions shall implement the increase prescribed herein starting School Year 2008-2009.

Section 7. WORKERS PAID BY RESULT. All workers paid by result, including those who are paid on piecework, "takay", "pakyaw" or task basis, shall be entitled to receive the prescribed increase per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

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

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new minimum wage rates.

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

Section 9. EXEMPTIONS. Upon application with and as determined by the Board, based on documentation and other requirements in accordance with applicable rules and regulations issued by the Commission, the following may be exempted from the applicability of this Order:

- a. Distressed establishments; and
- b. New business enterprises.

Section 10. APPLICATIONS FOR EXEMPTION. Pursuant to the rules and regulations of the National Wages and Productivity Commission, all applications for exemption from compliance with this

Order shall be filed within seventy-five (75) days from the date of publication of the Rules Implementing this Order, with complete supporting documents as specified in the Rules and as may be further required by the Board. Failure to submit the required supporting documents within the prescribed period will be sufficient basis for the dismissal of the application for exemption.

The Board may grant a maximum period of exemption of one (1) year in accordance with the NWPC Rules on Exemption, but in no case shall any exemption exceed one (1) year from the effectivity of this Order.

Section 11. EFFECT OF APPLICATION FOR EXEMPTION. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with this Wage Order shall be deferred pending its resolution.

In the event that the application for exemption is not granted in accordance with the Rules, the employees of the applicant firm shall receive the mandated wage increase under this Order, plus one percent (1%) interest per month retroactive to the effectivity of this Order.

Section 12. APPEAL TO THE COMMISSION. Any party aggrieved by this order Wage Order may file an appeal to the Commission, through the Board, in three (3) printed copies, not later than ten (10) days from the publication of this Wage Order.

Section 13. CREDITABLE WAGE INCREASE. An increase granted by an employer in an organized establishment within three (3) months prior to the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein, provided that an agreement to this effect has been forged between the parties or a collective bargaining agreement provision allowing creditability exists. In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the increase prescribed in this Order. In unorganized establishments, an increase granted by the employer within five (5) months prior to the effectivity of this Order shall be credited as compliance therewith.

In case the increases given are less than the prescribed adjustment, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases and those resulting from the regularization or promotion of employees.

Section 14. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the increase prescribed in this Order results in distortions in the wage structure within the establishment, it shall be corrected in accordance with the procedure provided for under Article 124 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines.

Section 15. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment, and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 16. PRODUCTIVITY AND OTHER PERFORMANCE INCENTIVE PROGRAMS. In order to sustain rising levels of wages and enhance competitiveness, labor and management as partners are encouraged to adopt productivity improvement schemes that will improve the quality of life of workers and in turn enable them to produce more and earn more, such as time and motion studies, good

housekeeping, quality circles, labor and management cooperation as well as implement gain-sharing and other performance incentive programs.

Section 17. NON-DIMINUTION OF BENEFITS. Nothing in this Order 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. 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 19. FREEDOM TO BARGAIN. This Order shall not be construed to prevent workers in particular firms or enterprises or industries from bargaining for higher wages with their respective employers.

Section 20. REPORTING REQUIREMENT. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified report on their wage structure to the Board not later than January 31, 2008 and every year thereafter in accordance with the form prescribed by the National Wages and Productivity Commission.

Section 21. PENAL PROVISION. Any employer who refuses or fails to comply with this Order shall be subject to the penalties specified under RA 6727, as amended under R.A. No. 8188.

Section 22. REPEALING CLAUSE. All orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed, amended or modified accordingly.

Section 23. SEPARABILITY CLAUSE. If any provision or part of this Wage Order is declared unconstitutional, or in conflict with existing law, the other provisions or parts thereof shall remain valid.

Section 24. IMPLEMENTING RULES. The Regional Tripartite Wages and Productivity Board-National Capital Region shall submit to the Commission the necessary Rules and Regulations to implement this Order for the approval of the Secretary of Labor and Employment not later than ten (10) days from the publication of the Wage Order.

Section 25. EFFECTIVITY. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

APPROVED. Iloilo City, Philippines, 12 September 2007.

(Sgd) HERNANE P. BRAZA

Workers' Representative

(Sgd) JOHN PETER Z. MILLAN

Employers' Representative

(Sgd) WENNIE G. SANCHO

Workers' Representative

(Sgd) LUIS R. ESTRELLA

Employers' Representative

(Sgd) DOMINIC P. ABAD

REGIONAL DIRECTOR, DTI

VICE CHAIRMAN

(Sgd) ARTURO G. VALERO

REGIONAL DIRECTOR, NEDA

VICE CHAIRMAN

(Sgd) AIDA M. ESTABILLO

REGIONAL DIRECTOR, DOLE

CHAIRMAN

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

RULES IMPLEMENTING WAGE ORDER NO. RBVI-15

RULE I
GENERAL PROVISIONS

Pursuant to Section 6, Rule IV of the National Wages and Productivity Commission Guidelines No. 01, Series of 2007 (Amended Rules of Procedure on Minimum Wage Fixing) and Section 24 of Wage Order No. RBVI-15, the following Rules are hereby issued for the guidance and compliance by all concerned:

Section 1. TITLE. This shall be known as “The Rules Implementing Wage Order No. RBVI-15”.

Section 2. DEFINITION OF TERMS. As used in these Rules:

- a) **Order** means Wage Order No. RBVI-15.
- 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 VI.
- e) **Regional Office** refers to the regional office of the Department of Labor and Employment in Western Visayas.
- 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** refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activity 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.
- h) **Establishment** refers to an economic unit, which 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/s but separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.

- i) **Distressed Establishments** refer to establishments which meet the criteria enumerated in Section 3A of the National Wages and Productivity Commission (NWPC) Guidelines No. 02, Series of 2007, otherwise known as the “Amended Rules on Exemption from Compliance with the Prescribed Wage Increases/Cost of Living Allowances Granted By the Regional Tripartite Wages and Productivity Boards”.
- j) **Barangay Micro Business Enterprise (BMBE)** refers to any business entity or enterprise granted a Certificate of Authority under Republic Act No. 9178, otherwise known as the Barangay Micro Business Enterprises Act of 2002.
- k) **Capital** refers to the paid-up capital at the end of the last full accounting period in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships.
- l) **Capital Impairment** refers to the diminution of capital due to accumulated losses.
- m) **Stockholders’ Equity** refers to the residual interest in the assets of an entity that remains after deducting its liabilities. It is total assets minus total liabilities. It is the same as equity and net worth.
- n) **Full Accounting Period** refers to a period of twelve (12) months of business operations.
- o) **Interim Period** refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year).
- p) **Deficit** refers to the negative balance of the retained earnings account of a corporation.

Retained earnings represent the cumulative balance of periodic earnings, dividend distributions, prior period adjustments and other capital adjustments.

- q) **Total Assets** refer to things of value owned by the business such as cash, machines, building and land which can be measured or expressed in money terms.
- r) **Net Loss** refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues.
- s) **Financial Statement** refers to a written report which quantitatively describes the financial health of a company. This includes the following: balance sheet, income statement, statement of changes in equity, cash flow statement and notes to financial statement.
- t) **Stock Corporation** refers to a corporation, duly registered with Securities and Exchange Commission (SEC), organized for profit and issues shares of stock to its members.
- u) **Non-stock, Non-profit Organization** refers to an organization, duly registered with Securities and Exchange Commission, organized principally for public purposes such as charitable, educational, cultural or similar purposes, and does not issue shares of stock to its members.
- v) **Partnership** refers to an association, duly registered with Securities and Exchange Commission (SEC), of two or more persons who bind themselves to contribute money, property, or industry to a common fund with the intention of dividing the profits among themselves or for the exercise of a profession.
- w) **Single Proprietorship** refers to a business unit, duly registered with Department of Trade and Industries (DTI), owned and controlled by only one person.
- x) **Cooperative** refers to a duly registered association of persons with the Cooperative Development Authority (CDA) who voluntarily join together to form a business establishment which they themselves own, control and patronize, and which may fall under any of the following types:

credit, consumers, producers, marketing, service or multi-purpose.

- y) **Wage Distortion** as defined under Article 124 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, as amended, refers to a situation where an increase in the 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.
- z) **New Business Enterprise** as defined is 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 effectivity of the Wage Order.

RULE II
NEW MINIMUM WAGE RATES

Section 1. SIMPLIFICATION OF WAGE STRUCTURES. The wage structure rationalization/simplification in the region pursuant to NWPC Guidelines No. 01, Series of 2005 (Policy Directions and Program Thrusts: 2006-2010) shall be effected in three (3) stages, as follows:

- a. Upon effectivity of this Wage Order;
- b. On May 1, 2008; and
- c. On September 16, 2008.

Section 2. NEW MINIMUM WAGE RATES. a) Upon effectivity of this Wage Order, the new minimum wage rates in the region are as follows:

INDUSTRY/SECTOR	Under W.O. No. RBVI-14	Under W.O. No. RBVI-15		
		Effective 05 Oct 2007	Effective 01 May 2008	Effective 15 Sept 2008
SUGAR INDUSTRY				
Mills	P 235.00	235.00		
Agriculture Plantation with capitalization of:				
More than P3 Million	203.00	203.00		
Not More than P3 Million	185.00	185.00	203.00	
Non-Plantation	180.00	193.00		
NON-AGRICULTURE				
(i.e. Industrial/Commercial)				
With capitalization of:				
More than P3 Million	222.00	235.00		
More than P 1 Million but less than P 3Million	212.00	225.00	235.00	
Not More than P 1 Million	199.00	215.00	225.00	235.00
HOSPITALS	222.00	235.00		

COTTAGE/HANDICRAFT	180.00	193.00		
RETAIL/SERVICE				
Employing more than 10 workers				
Highly urbanized cities with the following capitalization and employment size:				
More than P 3 Million employing:				
More than 15 workers	222.00	235.00		
11- 15 workers	212.00	225.00	235.00	
More than P 1 Million but not more than P3M	203.00	215.00	225.00	235.00
Not More than P 1Million	194.00	209.00	224.00	235.00
Component municipalities and cities and with the following capitalization:				
More than P3 Million	208.00	218.00	228.00	235.00
More than P1 Million but not more than P 3 Million	203.00	215.00	225.00	235.00
Not More than P 1 Million	194.00	209.00	224.00	235.00
Employing not more than 10 workers	180.00	193.00		
AGRICULTURE				
Plantation				
With capitalization of more than P 3 Million & annual gross sales of:				
P5 Million or more	203.00	203.00		
Less than P5 Million	199.00	203.00		
With capitalization of more than P 1 Million but not more than P3 Million with annual gross sales of:				
P5 Million or more	199.00	203.00		
Less than P5 Million	185.00	195.00	203.00	
With capitalization of not more than P1 Million	185.00	195.00	203.00	
Non-Plantation	180.00	193.00		

As provided in Wage Order RBVI-15, the following are classified under non-agriculture/industrial/commercial: establishments employing more than 10 workers; sugar mills; hospitals; establishments in highly-urbanized cities component cities and municipalities with capitalization of PhP1M and over. Non- agriculture/industrial/commercial: establishments employing 10 or less workers

and cottage and handicraft. Under agriculture: plantation - sugar & non-sugar and non-plantation – sugar & non-sugar.

Upon full simplification to take effect on September 16, 2008, the sector/industry classification with the corresponding minimum wage rates shall be as follows:

Sector/Industry	New Minimum Wage Rates
I - Non-Agriculture/Industrial/Commercial	
Employing more than 10 workers	P 235.00
Employing 10 or less workers	P 193.00
II - Agriculture	
Plantation	P 203.00
Non-Plantation	P 193.00

Section 3. COVERAGE. The wage increase prescribed in this Wage Order shall apply to all minimum wage earners in the private sector in the Region, regardless of their position, designation or status of employment and irrespective of the method by which they are paid.

This Wage Order shall not cover household or domestic helpers; persons in the personal service of another, including family drivers, and workers of duly registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to Republic Act 9178.

Section 4. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed under this Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

Section 5. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2007-2008 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2008-2009.

Private educational institutions, which have not increased their tuition fees for School Year 2007-2008, may defer compliance with the provisions of this Wage Order until the beginning of School Year 2008-2009.

In any case, all private educational institutions shall implement the increase prescribed herein starting School Year 2008-2009.

Section 6. APPLICATION TO CONTRACTORS. In case of contracts for construction projects, security, janitorial and other similar services, the increase in the minimum wage prescribed herein shall be borne by the principal or client of the contractor and the contract shall be deemed amended accordingly as mandated by the Labor Code.

In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 7. WORKERS PAID BY RESULT. All workers paid by result, 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 work a day, or a proportion thereof for working less than the normal working hours.

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

- a. Amount of Increase in AMW*

$$\frac{\text{-----}}{\text{Previous AMW}} = \% \text{ Increase}$$
- b. Existing rate per piece x % of increase = increase in rate/piece
- c. Existing rate/piece + increase in rate/piece = adjusted rate/piece

*Where AMW is the Applicable Minimum Wage rate.

The wage rate of workers who are paid by result shall continue to be established in accordance with Article 101 of the Labor Code of the Philippines, as amended, and its implementing rules and regulations.

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

All recognized learnership and apprenticeship agreements entered into before the effectivity of the Order shall be considered automatically modified in so far as their wage clauses are concerned to reflect the adjustments prescribed under the same Order.

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

Section 9. 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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 392.50 \text{ days}}{\text{-----}}$$

Where 392.50 days are:

299.00 days - Ordinary working days

22.00 days - 11 regular holidays x 200

67.60 days - 52 rest days x 130%

3.90 days - 3 special days (if worked) x 130%

392.50 days - Total equivalent number of days

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

$$\text{(EMR)} = \text{(ADR x 365 days)} / 12$$

Where 365 days are:

299 days - Ordinary working days

52 days - Rest days

11 days - Regular holidays

3 days - Special days

365 days - Total equivalent number of days

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

$$\text{(EMR)} = \text{(ADR x 313 days)} / 12$$

Where 313 days are:

299 days - Ordinary working days

11 days - Regular holidays

3 days - 3 Special days (if considered paid; if actually worked this is equivalent to 3.9 days)

313 days - Total equivalent number of days

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

$$\text{EMR} = (\text{ADR} \times 261 \text{ days}) / 12$$

Where 261 days are:

247 days - Ordinary working days

11 days - Regular holidays

3 days - 3 Special days (if considered paid; if actually worked, this is equivalent to 3.9 days)

261 days - Total equivalent number of days

Section 10. MOBILE AND BRANCH WORKERS. The minimum wage rates of workers, who, by the 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 shall be those applicable in the place where they are stationed.

Section 11. 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 other Regions with higher wage rates shall be entitled to the minimum wage rates applicable therein.

Section 12. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file an appeal to the Commission within ten (10) calendar days from the publication of the Order. Pursuant to Section 5, Chapter III of the Rules Implementing R.A. 6727, the Commission shall decide the appeal within sixty (60) calendar days from the 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 13. 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 that such Order is affirmed.

RULE III EXEMPTIONS

Section 1. WHO MAY BE EXEMPTED. Upon application with and as determined by the Board, based on compliance with the requirements under the applicable rules and regulations, the following may be exempted from the applicability of this Order:

- a) Distressed establishments in accordance with the criteria enumerated in the National Wages and Productivity Commission (NWPC) Guidelines No. 02, series of 2007 (Amended Rules on Exemption);
- b) Establishments adversely affected by natural calamities; and,

- c) New business enterprises.

Section 2. APPLICATION FOR EXEMPTION AND GENERAL DOCUMENTARY REQUIREMENTS. Within seventy-five (75) days from the date of publication of these Rules, pursuant to NWPC Guidelines No. 02, Series of 2007 (Amended Rules on Exemption), an application for exemption with complete supporting documents as specified in the Rules, and as may be further required by the Board, shall be filed with the Board in three (3) copies by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. The date of mailing shall be deemed as the date of filing.

Failure to submit the required supporting documents within the said prescribed period will serve as sufficient basis for the dismissal of the application for exemption.

All applications for exemption shall be:

- a) under oath;
- b) supported by a proof of notice to the Union/s or if there is no Union, a copy of the circular giving general notice to all workers that an application for exemption from compliance with the Order has been filed with the Board.

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; and,

- c) accompanied by an affidavit under oath:
 - i) stating the principal economic activity of the applicant;
 - ii) declaring the true and correct number of all its employees and workers;
 - iii) indicating its wage structure, i.e., the total and complete list of all the employed personnel with their corresponding wages and other remunerations; and,
 - iv) subscribed and sworn to either by the Chairman of the Board of Directors, President, Chief Executive Officer, General Manager, Owner or Proprietor of the business enterprise or establishment seeking an exemption from compliance with the Wage Order.
- d) supported by a certificate of registration from the appropriate government agency/ies) (e.g. Securities and Exchange Commission [SEC] in the case of a corporation, partnership or association; Cooperative Development Authority [CDA] in the case of a cooperative; or Department of Trade and Industry [DTI] in the case of sole proprietorship); and,
- e) Valid and updated Local Business Permit issued by the appropriate local government unit and/or government agency/ies.

Section 3. DURATION AND EXTENT OF 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. 02, Series of 2007.

(B) Partial exemption of 50% from effectivity of the Order with respect to the amount or period of exemption shall be granted only in the case of distressed establishments under Section 3 of NWPC Guidelines No. 02, Series of 2007.

(C) Conditional exemption of one (1) year from effectivity of the Order shall be granted only in the case of distressed establishments under Section 3 A of NWPC Guidelines No. 02, Series of 2007. The conditional exemption shall be confirmed, as follows:

c.1 For Corporations

When deficit as defined in Section 1 (N) of NWPC Guidelines No. 02, Series of 2007, as of the last full accounting period amounts to 20% or more of the paid-up capital for the same period;

c.2 For Single Proprietorships and Partnerships

When net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review;

c.3 For Non-Stock, Non-Profit Organizations

When net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period.

In the absence of such actual losses, the company shall pay its workers the wage increases due them under the Order, retroactive to the effectivity of the Order.

Section 4. CRITERIA AND ADDITIONAL SUPPORTING DOCUMENTS FOR EXEMPTION. In order to determine whether an applicant establishment is qualified for exemption, the following are the criteria and additional supporting documents required:

I. Distressed Establishment:

A. Criteria:

1. For stock corporations/cooperatives:

a) Full Exemption

a.1 When the deficit, as defined in Section 1 (N) of the Amended Rules of Exemption, as of the last full accounting period immediately preceding the effectivity of the Order amounts to 20% or more of the paid-up capital for the same period; or

a.2 When an establishment registers a capital deficiency i.e. negative stockholders' equity, as of the last full accounting period immediately preceding the effectivity of the Order.

b) Partial Exemption

b.1 When the deficit, as defined in Section 1 (N) of the Amended Rules of Exemption, as of the last full accounting period immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the paid-up capital for the same period.

c) Conditional Exemption

c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of the total assets.

2. For Single Proprietorships/Partnerships

a) Full Exemption

a.1 When the accumulated losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review; or

a.2 When an establishment registers a capital deficiency i.e. negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.

b) Partial Exemption

b.1 When the accumulated net losses for the last full two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the total invested capital at the beginning of the period under review.

c) Conditional Exemption

c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

3. For Non-Stock, Non-Profit

a. Full Exemption

a.1 When the accumulated losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period; or

a.2 When an establishment registers capital deficiency, i.e. negative fund balance/members' contribution as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.

b. Partial Exemption

b.1 When the accumulated net losses for the last two (2) full accounting period immediately preceding the effectivity of the Order amounts to at least 10% but not more than 20% of the fund balance/members' contribution at the beginning of the period.

c) Conditional Exemption

c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

4. For Banks and Quasi-banks

a. Under receivership/liquidation

Exemption may be granted to a bank or quasi-bank under receivership or liquidation when there is a certification from the Bangko Sentral ng Pilipinas (BSP) that it is under receivership or liquidation as provided in Section 30, R.A. No. 7653, otherwise known as the New Central Bank Act.

b. Under Controllorship/Conservatorship

A bank or quasi-bank under controllorship/conservatorship may apply for exemption as a distressed establishment under Section 3 A of the Amended Rules on Exemption.

5. Establishments Under Corporate Rehabilitation

Exemption may be granted to corporations, partnerships and associations under corporate rehabilitation when there is an order from the court of competent jurisdiction that it is under rehabilitation as provided in Section 6, Rule IV of the Interim Rules of Procedure on Corporate Rehabilitation (2000).

B. Additional Supporting Documents:

1. For corporations, cooperatives, single proprietorships, partnerships, non-stock, non-profit organizations:
 - a. Full or Partial Exemption
 - a.1 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 agency.
 - b. Conditional Exemption
 - b.1 Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last full accounting period and interim quarterly financial statements for the period immediately preceding the effectivity of the Order.
 - b.2 To confirm the grant of conditional exemption, audited financial statements for the last full accounting period, stamped "received" by the appropriate government agency, to be submitted within 30 days from the lapse of the one year exemption period.
2. For Banks and Quasi-Banks

Certification from the Bangko Sentral ng Pilipinas that it is under receivership/liquidation.
3. For Establishments Under Corporate Rehabilitation

Order from a court of competent jurisdiction that the establishment is under rehabilitation.

The Board may further require the submission of other supporting documents pertinent to the determination of Applicant's eligibility for exemption.

II. Establishments Adversely Affected by Natural Calamities

A. Criteria:

1. The establishment must be located in an area declared by a competent authority as under a state of calamity.
2. The natural calamities, such as earthquakes, lahar flow, typhoons, volcanic eruptions, fire, floods and similar occurrences, must have occurred within 6 months prior to the effectivity of the Wage Order.
3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as of the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnerships and single proprietorships and fund balance/members' contribution in the case of non-stock non-profit organizations.

Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.

4. Where necessary, the Board or its duly authorized representative shall conduct an ocular inspection of the establishment or engage the services or experts to validate the extent of damages suffered.

B. Additional Supporting Documents:

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. Adjuster's report for insured properties.
4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped "*received*" by the appropriate government agency.

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

III. New Business Enterprise

A. Criteria

Exemption may be granted to new Business Enterprises located outside the National Capital Region (NCR) and Export processing Zones and established within two (2) years from effectivity of the Order, classified under any of the following:

1. Agricultural establishments whether plantation or non-plantation,
2. Establishments with total assets after financing of Five Million (PhP5,000,000.00) Pesos and below.

B. Supporting Documents:

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 appropriate government agency

Section 5. EFFECT OF FILING OF AN APPLICATION FOR EXEMPTION. Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be duly 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 6. APPLICATION FOR PROJECTS/BRANCHES/DIVISIONS. Where the exemption being sought for is for a particular project/branch/division not separately registered and licensed, the consolidated audited financial statements of the establishment shall be used as basis for determining its distressed condition.

Section 7. DISTRESSED PRINCIPAL. Exemption granted to a distressed principal shall not extend to its contractor in case of contract(s) for construction, security, janitorial, and/or similar services, with respect to the employees of the latter assigned to the former.

Section 8. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION. In the event that the application for exemption, as regards any of the categories, is not approved, all covered workers and employees shall be paid the mandated increase due them as provided for under this Order retroactive to the date of its effectivity, plus a simple interest of one (1%) percent per month.

Section 9. 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 timely and appropriately appealed to the Commission.

SECTION 10. APPEAL. Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in three (3) legible copies, not later than ten (10) days from receipt of the decision. The appeal must be filed in the manner prescribed by the Commission and must be based on any of the following grounds:

- a) non-conformity with the prescribed guidelines/procedures on exemption;
- b) prima facie evidence of grave abuse of discretion on the part of the Board; or,
- c) questions of law.

RULE IV

CREDITABLE INCREASE

Section 1. ORGANIZED ESTABLISHMENTS. Wage increases granted by an employer in an organized establishment within three (3) months prior to the effectivity of the Order may be credited as compliance with the prescribed increase set forth therein; Provided that an agreement to this effect has been forged between the parties or a provision in the collective bargaining agreement allowing creditability exists.

In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the increase prescribed in this Order.

Section 2. UNORGANIZED ESTABLISHMENTS. In unorganized establishments, wage increases granted by the employer within five (5) months prior to the effectivity of the Order may be credited as compliance.

Section 3. CREDITABLE INCREASES GIVEN IN THE FORM OF ALLOWANCES. Where the increase given by the employer is in the form of allowances, the employer shall integrate the same into the basic wage of the workers. However, if the amount of the increase is greater than the increase granted under the Wage Order, the employer has the option to integrate partially or in full the allowances earlier given. In the event of partial integration, any excess maybe retained as allowances.

Section 4. CREDITABLE INCREASES GIVEN LESS THAN THE PRESCRIBED ADJUSTMENTS. In case the increases given are less than the prescribed adjustments, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases, and those resulting from the regularization or promotion of employees.

RULE V

SPECIAL PROVISIONS

Section 1. EFFECT ON EXISTING WAGE STRUCTURE. In accordance with Article 124 of the Labor Code, 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 shall have been 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. Pursuant to existing rules, any dispute arising there from 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 any dispute arising from a wage distortion shall not in any way delay the applicability of the 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 and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 3. PRODUCTIVITY AND OTHER PERFORMANCE INCENTIVE PROGRAMS. In order to sustain rising levels of wages and enhance competitiveness, labor and management as partners are encouraged to adopt productivity improvement schemes that will improve the quality of life of workers and in turn enable them to produce more and earn more, such as time and motion studies, good housekeeping, quality circles, labor and management cooperation as well as implement gain-sharing and other performance incentive programs.

Section 4. CONDUCT OF INSPECTION BY THE DEPARTMENT. In accordance with existing rules, 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 Wage Order. In the conduct of inspection in unionized/organized establishments, Department inspectors shall always be accompanied by the president or other responsible officer of the recognized collective bargaining unit or of any interested union. In the case of non-unionized/non-organized establishments, a worker representing his fellow employees in the establishment 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 5. NON-DIMINUTION OF BENEFITS. Nothing in this Order shall be construed to eliminate or in any way diminish, or as authorizing the reduction of any existing wage rates, allowances, benefits and supplements of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and employers, or employer practices or policies, being enjoyed at the time of the promulgation of this Order.

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 proceeding before the Board as provided for under Article 126 of the Labor Code, as amended.

Section 7. FREEDOM TO BARGAIN. 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. PENAL PROVISION. Pursuant to the provisions of Section 12 of Republic Act No. 6727, as amended by Republic Act No. 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 not less than Twenty-Five Thousand (PhP25,000.00) Pesos nor more than One Hundred Thousand (PhP100,000.00) Pesos 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 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 imposable under the aforementioned Act.

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 9. REPORTING REQUIREMENT. 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, 2008 and every year thereafter in accordance with the form prescribed by the Commission.

Section 10. REPEALING CLAUSE. All orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Rules are hereby repealed, amended or modified accordingly.

Section 11. SEPARABILITY CLAUSE. If any provision or part of these Implementing Rules is declared unconstitutional, or in contrast with existing laws, the other provisions or parts thereof shall remain valid.

Section 12. EFFECTIVITY. These Rules shall take effect on 05 October 2007.

Done in the City of Iloilo, Philippines, September 19, 2007.

(Sgd.)JOHN PETER Z. MILLAN
EMPLOYERS' REPRESENTATIVE

(Sgd.)WENNIE G. SANCHO
WORKERS' REPRESENTATIVE

(Sgd.)LUIS R. ESTRELLA
EMPLOYERS' REPRESENTATIVE

(Sgd.)HERNANE P. BRAZA
WORKERS' REPRESENTATIVE

DOMINIC P. ABAD
REGIONAL DIRECTOR
DTI
VICE CHAIRPERSON

(Sgd.) ARTURO G. VALERO
REGIONAL DIRECTOR
NEDA
VICE CHAIRPERSON

(Sgd.)AIDA M. ESTABILLO
REGIONAL DIRECTOR, DOLE
CHAIRPERSON

Approved this 5th day of November 2007.

(Sgd) ARTURO D. BRION
Secretary
Department of Labor and Employment