



## WAGE ORDER NO. RBVI-23

### PROVIDING FOR THE NEW MINIMUM WAGE RATES IN WESTERN VISAYAS AND NEGROS OCCIDENTAL

**WHEREAS**, the Regional Tripartite Wages and Productivity Board VI, Western Visayas (otherwise referred to as the Board) 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;

**WHEREAS**, the last minimum wage adjustment took effect May 02, 2015, covered by Wage Order No. RBVI-22;

**WHEREAS**, small group consultations were motu proprio conducted by the Board on July 19, 2016 with the Labor Sector in Iloilo City; June 23, 2016 with the Employers Sector in Iloilo City; August 18, 2016 in Kalibo, Aklan; and August 24, 2016 in Roxas City, Capiz;

**WHEREAS**, a petition for wage increase was filed on August 30, 2016 by the Philippine Agricultural Commercial and Industrial Workers' Union (PACIWU-TUCP) in the Department of Labor and Employment (DOLE)- NIR seeking for a Php101.34; Php90.61; and Php86.87 wage increase in the private sector in Negros Island Region (NIR) for: Commercial Establishments employing more than ten (10) employees; Plantations with more than twenty-four (24) hectares of land; and for Non-Plantation and Plantation with twenty-four (24) hectares and below, respectively;

**WHEREAS**, the National Wages and Productivity Commission (NWPC) letter dated September 05, 2016 advised the Regional Boards of Region VI and VII to consider the Provinces of Negros Occidental and Negros Oriental as part of their regional jurisdiction, respectively, to ensure that the welfare and interest of the workers are duly taken care of. The NWPC also advised the DOLE-NIR Regional Director to forward the wage increase petition to RTWPBs VI and VII so that the same may be considered as input in their wage deliberations;

**WHEREAS**, the Board conducted a public consultation on September 30, 2016 in Bacolod City and a series of public hearings on October 14, 2016 in Bacolod City, Negros Occidental; October 21, 2016 in Iloilo City; November 16, 2016 in Roxas City, Capiz; and November 17, 2016 in Boracay Island, Malay, Aklan;

**WHEREAS**, after taking into consideration the comments and reactions raised by the workers and management during the public hearings; the position papers submitted by the following organizations: Metro Bacolod Chamber of Commerce and Industry; Philippine Chamber of Commerce and Industry; Confederation of Sugar Producers' Association-Negros Panay Chapter; Bacolod Filipino-Chinese Chamber of Commerce and Industry; Iloilo Business Sector; Capiz Business Sector; and the recent poverty threshold, average wage, consumer price index and inflation rate, the Board has determined the need to adjust the minimum wage rates of private sector workers in the Region and Negros Occidental;

**WHEREAS**, the Board has been encouraging industries/establishments to implement productivity improvement programs to enable them to grant productivity-based pay on top of and in addition to the minimum wage;

**WHEREAS**, a Memorandum, dated December 05, 2016, was issued by the Secretary of Labor and Employment granting the authority to include Negros Occidental and Negros Oriental in the Public Hearings/Consultations on Wage Review and Determination of RTWPB VI and VII respectively;

**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. NEW DAILY MINIMUM WAGE RATES.** Upon effectivity of this Wage Order, the new minimum wage rates in the private sector in the Region are as follows:

Sector/Industry	Minimum Wage Under Wage Order No. RBVI-22	Basic Wage Increase	New Minimum Wage Rates.
1. Non-Agriculture/ Industrial / Commercial			
a. Employing more than ten (10) workers	Php298.50	Php25.00	Php323.50
b. Employing ten (10) workers and below	Php256.50	Php15.00	Php271.50
2. Agriculture			
a. Plantation	Php266.50	Php15.00	Php281.50
b. Non-Plantation	Php256.50	Php15.00	Php271.50

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**SECTION 2. COVERAGE.** The wage increase prescribed in this Wage Order shall apply to all minimum wage earners in the private sector Western Visayas Region, regardless of their position, designation or status of employment and irrespective of the method by which they are paid.

Pending the constitution of the RTWPB-NIR, the Wage Order shall also apply to all minimum wage earners in the private sector in Negros Occidental, 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 workers, persons in the personal service of another and workers of duly registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to Republic Act No. 9178.

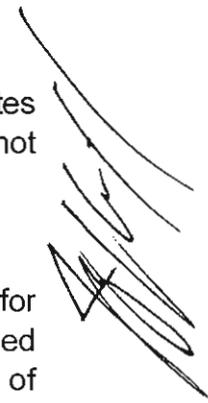
**SECTION 3. BASIS OF MINIMUM WAGE RATES.** The minimum wage rates prescribed under this Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

**SECTION 4. APPLICATION TO CONTRACTORS.** In case of contracts for construction projects, and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers shall be borne by the principal or client of the construction / service contractors and the contract shall be deemed amended accordingly.

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

**SECTION 5. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, the share of covered workers and their employees in the increase of tuition fees for the School Year 2016-2017 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 2017-2018.

Private educational institutions which have not increased their tuition fees for School Year 2016-2017 may defer compliance with the wage rates prescribed herein until the beginning of School Year 2017-2018. In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2017-2018.



**SECTION 6. 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 not less than the prescribed wage rates a day, or a proportion thereof for working less than eight (8) hours.

**SECTION 7. 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 new wage rates prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

**SECTION 8. 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;
- b) New business enterprises; and
- c) Establishments adversely affected by calamities such as natural and/or human induced disasters

**SECTION 9. APPEAL TO THE COMMISSION.** Any party aggrieved by this Wage Order may file an appeal to the NWPC, through the Board, in three (3) printed copies, not later than ten (10) days from publication of this Wage Order.

**SECTION 10. 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 11. PRODUCTIVITY AND OTHER PERFORMANCE INCENTIVE PROGRAMS (PIP).** In order to sustain rising levels of wages and enhance competitiveness, labor and management as partners are encouraged to adopt productivity improvement schemes to enable them to produce more and earn more and eventually improve their quality of life. These PIP may include time and motion

studies, good housekeeping, quality circles, labor and management cooperation as well as implementation of gainsharing and other performance-incentive programs.

**SECTION 12. 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 having jurisdiction over the workplace and shall be subjected to the mandatory thirty (30) days conciliation and mediation process under the single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

**SECTION 13. 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 14. 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 15. 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 16. 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, 2017 and every year thereafter in accordance with the form prescribed by the National Wages and Productivity Commission.

**SECTION 17. PENAL PROVISION.** Any employer who refuses or fails to comply with this Order shall be subject to the penalties specified under Republic Act No. 6727, as amended under Republic Act No. 8188.

**SECTION 18. 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 19. 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 20. IMPLEMENTING RULES.** The Regional Tripartite Wages and Productivity Board VI shall submit to the Commission the necessary Rules and Regulations to implement this Order subject to approval of the Secretary of Labor and Employment not later than ten (10) days from publication of the Wage Order.

**SECTION 21. ADVISORY ON PRODUCTIVITY-BASED PAY (PBP).** Pursuant to the Two-Tiered Wage System, the Board shall issue corresponding advisories on the 2<sup>nd</sup> tier or the productivity-based pay which shall serve as guidelines for private establishments on the range of productivity bonuses and incentives that an enterprise may provide based on agreement between workers and management.

**SECTION 22. EFFECTIVITY.** This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Region.

APPROVED. Iloilo City, Philippines, December 16, 2016.

  
**LUIS R. ESTRELLA**  
Employers' Representative

  
**HERNANE P. BRAZA**  
Workers' Representative

  
**JOHN PETER Z. MILLAN**  
Employers' Representative

  
**WENNIE G. SANCHO**  
Workers' Representative

  
**REBECCA M. RASCON**  
OIC Regional Director, DTI  
Vice-Chairperson

  
**RO-ANN A. BACAL**  
Regional Director, NEDA  
Vice-Chairperson

  
**SALOME O. SIATON**  
OIC Regional Director, DOLE  
Chairperson



## RULES IMPLEMENTING WAGE ORDER NO. RBVI-23

Pursuant to Section 6, Rule IV of the National Wages and Productivity Commission Guidelines No. 01-2007, otherwise known as the Amended Rules of Procedure on Minimum Wage Fixing and Section 20 of Wage Order No. RBVI-23, the following Rules are hereby issued for the guidance and compliance by all concerned:

### RULE I GENERAL PROVISIONS

**SECTION 1. TITLE.** This shall be known as "The Rules Implementing Wage Order No. RBVI-23".

**SECTION 2. DEFINITION OF TERMS.** As used in these Rules:

- a. **Order** means Wage Order No. RBVI-23.
- 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 and Iloilo including their respective component cities and the highly urbanized City of Iloilo.

- g. **Negros Occidental** covers the northwestern half of the Negros Island Region including the highly urbanized City of Bacolod.
- h. **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 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.
- i. **Plantation Agricultural Enterprise** is one engaged in agriculture with an area of more than twenty-four (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".
- 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 Enterprise Act of 2002.
- k. **Principal** refers to any employer, whether a person or entity, including government agencies and government-owned and controlled-corporations, who/which puts out or farms out a job, service or work to a contractor.
- l. **Contractor** refers to any person or entity, including a cooperative, engaged in a legitimate contracting or subcontracting arrangement providing either services, skilled workers, temporary workers, or a combination of services to a principal under a Service Agreement.
- m. **State of Calamity** refers to a condition involving mass casualty and/or major damages to property, disruption of means of livelihoods, roads and normal way of life of people in the affected areas as a result of the occurrence of natural or human-induced hazard.
- n. **Hazard** refers to a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood or services, social and economic disruption, or environmental damage; any potential threat to public safety and/or public health; any phenomenon which has the potential to cause disruption or damage to people, their property, their services or their environment, i.e., their communities. The four classes of hazards are natural, technological, biological and societal hazard.
- o. **Disaster** refers to a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses or impacts, which exceeds the ability of the affected community or society to cope using its own resources; an actual threat to public health and safety where the local government and the emergency services are unable to meet the

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immediate needs of the community; an event in which the local emergency management measures are insufficient to cope with a hazard, whether due to a lack of time, capacity or resources, resulting in unacceptable levels of damage or number of casualties.

- p. **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.
- q. **Distressed Establishment** refer to business 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 Board.
- r. **Stock Corporation** refers to a corporation, duly registered with the Securities and Exchange Commission (SEC), organized for profit and issues shares of stock to its members.
- s. **Non-stock, Non-profit Organization** refers to an organization, duly registered with the Securities and Exchange Commission (SEC), organized principally for public purposes such as charitable, educational, cultural or similar purposes, and does not issue shares of stock to its members.
- t. **Partnership** refers to an association, duly registered with the 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.
- u. **Single Proprietorship** refers to a business unit, duly registered with the Department of Trade and Industry (DTI), owned and controlled by only one person.
- v. **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.
- w. **New Business Enterprises** refers to establishments. Including non-profit institutions, established within two (2) years from effectivity of the Wage Order based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and Mayor's Office.

- x. **Quasi-Banks** refers to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.
- y. **Conservatorship** refers to a remedy resorted to by the Monetary Board in case a bank or quasi-bank is in a state of continuing inability or unwillingness to maintain a condition of liquidity deemed adequate to protect the interests of the depositors and creditors. A conservator is appointed to manage the establishment in order to restore its viability.
- z. **Receivership / Liquidation** refers to a remedy resorted by the Monetary Board in case a bank or quasi-bank is (a) unable to pay its liabilities as they become due in the ordinary course of business; (b) has insufficient realizable assets as determined by the Bangko Sentral ng Pilipinas to meet its liabilities; (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has willfully violated a cease and desist order under Sec. 37 that has become final involving acts or transactions which amount to fraud or dissipation of the assets of the institution.
  - aa. **Under Corporate Rehabilitation** refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction.
  - bb. **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.
  - cc. **Full Accounting Period** refers to a period of twelve (12) months of business operations.
  - dd. **Interim Period** refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year)
  - ee. **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.
  - ff. **Total Assets** refers to things of value owned by the business such as cash, machines, building and land which can be measured or expressed in money terms.
  - gg. **Net loss** refers to actual loss suffered by a company including overhead and interest charges deducted.
  - hh. **Capital** refers to 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 or partnerships and single proprietorships.

- ii. **Capital Impairment** refers to the diminution of capital due to accumulated losses.
- jj. **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.
- kk. **Wage Distortion** refers to a situation where an application of the prescribed wage increase 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.

## RULE II NEW MINIMUM WAGE RATES

**SECTION 1. NEW MINIMUM WAGE RATES.** Upon effectivity of this Wage Order, the new minimum wage rates in Region VI are as follows:

Sector/Industry	New Minimum Wage Rates.
1. Non-Agriculture/ Industrial / Commercial	
a. Employing more than ten (10) workers	Php 323.50
b. Employing ten (10) workers and below	Php 271.50
2. Agriculture	
a. Plantation	Php 281.50
b. Non-Plantation	Php 271.50

**SECTION 2. COVERAGE.** The wage increase prescribed in this Wage Order shall apply to all minimum wage earners in Region VI, regardless of their position, designation or status of employment and irrespective of the method by which they are paid.

Pending the constitution of the RTWPB-NIR, the Wage Order shall also apply to all minimum wage earners in the private sector in Negros Occidental, 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 workers, persons in the personal service of another and workers of duly registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to Republic Act No. 9178.

**SECTION 3. 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 4. APPLICATION TO CONTRACTORS.** In case of contracts for construction projects, and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers shall be borne by the principal or client of construction / service contractors and the contract shall be deemed amended accordingly.

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

**SECTION 5. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, the share of covered workers and their employees in the increase of tuition fees for the School Year 2016-2017 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 2017-2018.

Private educational institutions which have not increased their tuition fees for School Year 2016-2017 may defer compliance with the provisions of this Wage Order until the beginning of School Year 2017-2018.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2017-2018 whether they increase their tuition fees or not.

**SECTION 6. WORKERS PAID BY RESULT.** All workers paid by result/output, 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. 
$$\frac{\text{Amount of Increase in AMW}^*}{\text{Previous AMW}} = \% \text{ Increase}$$

- b. Existing rate per 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

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 7. 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 adjustments prescribed under the same Order.

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

**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 estimated equivalent monthly rates:

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

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 393.50 \text{ days}}{12}$$

Where 393.50 days:

298	Days	-	Ordinary working days
24	Days	-	11 Regular Holidays x 200%
67.60	Days	-	52 Rest Days x 130%
3.90	Days	-	3 Special Days x 130%
<b>393.50</b>	<b>Total equivalent number of days</b>		

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

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

Where 365 days:

298	Days	-	Ordinary working days
52	Days	-	Rest days / Sundays
12	Days	-	Regular Holidays
3	Days	-	Special days
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<b>365</b>	<b>Total equivalent number of days</b>		

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

$$EMR = \frac{ADR \times 313 \text{ days}}{12}$$

Where 313 days:

298	Days	-	Ordinary working days
12	Days	-	Regular Holidays
3	Days	-	Special days
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<b>313</b>	<b>Total equivalent number of days</b>		

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

$$EMR = \frac{ADR \times 261 \text{ days}}{12}$$

Where 261 days:

246	Days	-	Ordinary working days
12	Days	-	Regular Holidays
3	Days	-	Special days
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<b>261</b>	<b>Total equivalent number of days</b>		

**SECTION 9. 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 establishment 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 other Regions with higher wage rates shall be entitled to the minimum wage rates applicable therein.

### RULE III EXEMPTIONS

**SECTION 1. 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;
- b. New business enterprise;
- c. Establishments adversely affected by calamities such as natural and/or human induced disasters

**SECTION 2. CRITERIA FOR EXEMPTION.** In order to determine whether an applicant establishment is qualified for exemption, the following are the criteria:

I. Distressed establishments

1. For Corporations / Cooperatives

a. Full Exemption

- a.1. When the deficit, as defined in Section I (N), of the Amended Rules on 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 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 on 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 total assets.

Julius C. Jota

2. For Single Proprietorships/Partnerships

a. Full Exemption

- a.1. When the accumulated net 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 capital deficiency i.e. negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.

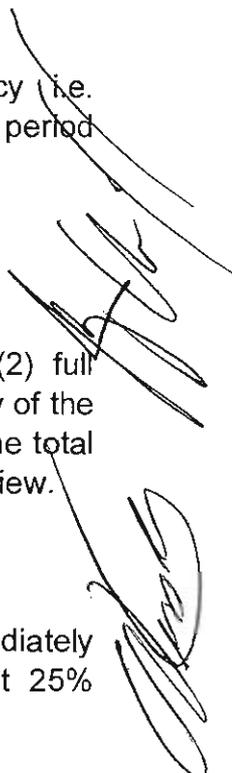
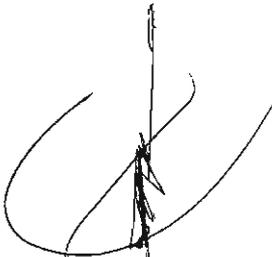


b. Partial Exemption

- b.1. When the accumulated net losses for the last 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 Organizations

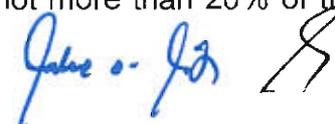
a. Full Exemption

- a.1. When the accumulated net 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' contributions as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.

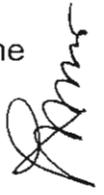


b. Partial Exemption

- b.1. When the accumulated net losses for the last two (2) full accounting periods 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 that it is under receivership or liquidation as provided in Section 30 of RA 7653, otherwise known as the New Central Bank Act.



b. Under controllership/conservatorship

A bank or quasi-bank under controllership/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 a 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)



II. New business enterprise

Exemption may be granted to New Business Enterprises 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 PESOS (Php5,000,000.00) and below.

June 11, 2015



III. Establishments adversely affected by calamities such as natural and/or human induced disasters

1. The establishment must be located in an area declared by a competent authority as under a state of calamity.
2. The calamity must have occurred within six (6) months prior to the effectivity of the Order. However, if based on the assessment by a competent authority, the damage to properties is at least fifty percent (50%) and the period of recovery will exceed one (1) year, the six (6) month period may be extended to one year.
3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to twenty percent (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 of experts to validate the extent of damages suffered.

**SECTION 3. GENERAL DOCUMENTARY REQUIREMENTS.** 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 principal;
  - 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 remunerations; and

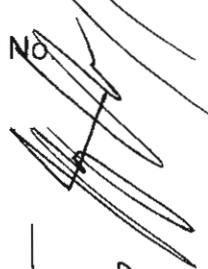
- iv. Subscribed and sworn to either by the Chairperson of the Board of Directors, President, Chief Executive Officer, General Manager, Owner or Proprietor of the business or enterprise or establishment seeking an exemption from compliance with the Wage Order.
- d) Supported by a Certificate of Registration 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; and
- f) Additional Supporting documents under Section 4 of the NWPC Guidelines No. 02, series of 2007.



**SECTION 4. ADDITIONAL DOCUMENTARY REQUIREMENTS.**

**A. For Distressed Establishments**

- 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 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.
  - 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 statement/s 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 Bangko Sentral ng Pilipinas that it is under receivership / liquidation.



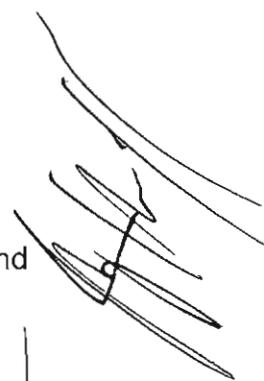
3. For Establishments Under Corporate Rehabilitation

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

B. New Business Enterprises

1. Affidavit from employer regarding the following.

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

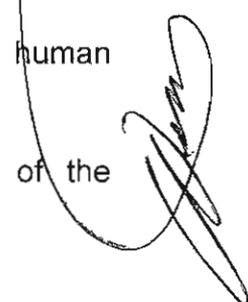


2. Certificate of registration from the appropriate government agency.

C. Establishments adversely affected by calamities such as natural and/or human induced disasters

1. Affidavit from the General Manager or Chief Executive Officer of the Establishment regarding the following:

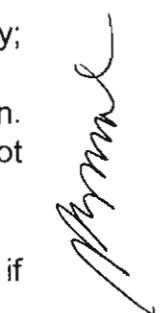
- a. Date and type of calamity;
- b. Amount of losses/damages suffered as a direct result of the calamity; and
- c. List of properties damaged/lost together with an estimated valuation. For properties that are not insured, a statement that the same are not covered by insurance.



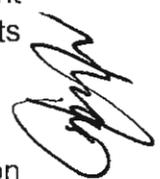
2. Copies of Insurance Policy Contracts covering the properties damaged, if any;

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.



5. In case of severe damage to properties caused by the calamity, a Certification issued by the Barangay and picture of the damaged properties may be submitted in lieu of the audited financial statements.



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

**SECTION 5. EXTENT AND DURATION OF EXEMPTION.**

A. Full Exemption of one (1) year from effectivity of this Order shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3 of the Amended Rules on Exemption.

B. Partial Exemption of 50% from effectivity of this Order with respect to the amount or period of exemption shall be granted only in the case of distressed establishments under Section 3 A of the Amended Rules on Exemption.

C. Conditional exemption of one (1) year from effectivity of this Order shall be granted only in the case of distressed establishments under Section 3 A of the Amended Rules. The conditional exemption shall be confirmed, as follows:

c.1. For Corporations

When deficit as defined in Section 1 (N) of the Amended Rules on Exemption, 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 this 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 this 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 this Order, retroactive to the effectivity of this Order.

**SECTION 6. ACTION ON APPLICATION FOR EXEMPTION.** Upon receipt of an application with complete documents, the Board shall take the following steps:

A. Notify the DOLE Regional Office having jurisdiction over the workplace of the pendency of the application requesting that action on any complaint for non-compliance with the Order be deferred pending resolution of the application by the Board.

John O. Guich

- B. Request the DOLE Regional Office to conduct ocular inspection if necessary, of establishments applying for exemption to verify number of workers, nature of business and other relevant information.
- C. Act and decide on the application for exemption with complete documents, as much as practicable, within 45 days from the date of filing. In case of contested application, the Board may conduct conciliation or call hearings thereon.
- D. Transmit the decision of the Board to the applicant establishment, the workers or president of the union, if any, and the Commission, for their information; and the DOLE Regional Office concerned, for their implementation/enforcement. The Board may create a Special Committee with one representative from each sector to expedite processing of applications for exemption.

**SECTION 7. APPLICATION FOR PROJECTS / BRANCHES / DIVISIONS.**

Where the exemption being sought 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 8 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 9. FILING OF APPLICATION.**

- A. 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 deemed as the date of filing.

Applications for exemption filed with the DOLE regional, district or provincial office are considered filed with the appropriate Board in the Region.

- B. Applications for all categories shall be filed not later than seventy-five (75) days from publication of the approved implementing rules of the Order, provided that all the required documents in support of the application must be filed within the said seventy-five (75) day filing period and that no further extension of filing and submission of required documents shall be allowed.

In case of New Business Enterprises, applications shall be filed not later than sixty (60) days after date of registration.

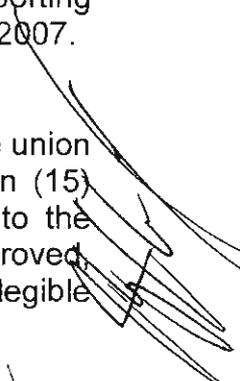
However, in case of applications for establishments adversely affected by calamities where the calamity occurred after the expiration of the period for the filing of an application for exemption, the Board may re-open the same.

Applicants under the preceding paragraph shall also submit a certification that a general assembly to explain to its workers and employees its intent to file an application for exemption, has been conducted prior to the filing of the application and an undertaking to conduct another general assembly informing its workers and employees of the decision of the Board on its application.

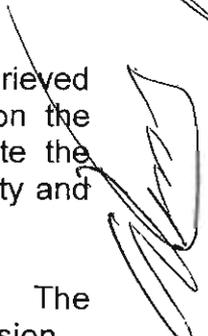


C. The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 4 of NWPC Guidelines 02, series of 2007.

**SECTION 10. FILING OF OPPOSITION.** Any worker or, if unionized, the union in the applicant establishment may file with the appropriate Board within fifteen (15) days from receipt of the notice of the filing of the application, an opposition to the application for exemption stating the reasons why the same should not be approved, furnishing the applicant a copy thereof. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.



**SECTION 11. FILING OF MOTION FOR RECONSIDERATION.** The aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.



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.

**SECTION 12. FILING OF APPEAL.** Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two (2) legible copies, not later than ten (10) days from date of receipt of the decision.



The appeal, with proof of service to the other party, shall be accompanied with a memorandum of appeal which shall state the date the appellant received the decision, the grounds relied upon and the arguments in support thereof.

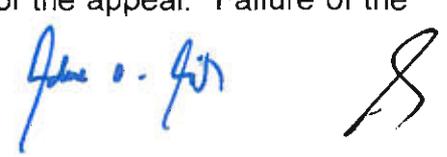
The appeal shall not be deemed perfected if it is filed with any office or entity other than the Board.

**SECTION 13. GROUNDS FOR APPEAL.** An appeal may be filed on the following grounds:

- A. Non-conformity with the prescribed guidelines and/or procedures on exemption;
- B. Prima facie evidence of grave abuse of discretion on the part of the Board; or
- C. Questions of law.



**SECTION 14. OPPOSITION.** The appellee may file with the Board his reply or opposition to the appeal within ten (10) days from receipt of the appeal. Failure of the



appellee to file his reply or opposition shall be construed as waiver on his part to file the same.

**SECTION 15. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION.**

In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage increase/allowance as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

**SECTION 16. NON-DIMINUTION OF BENEFITS.**

Exemption granted under this Guidelines shall not be construed to reduce existing wages and other benefits enjoyed by the workers under existing laws, decrees, issuances or under any contract of agreement between the workers and employees.

**RULE IV  
APPEAL ON WAGE ORDER AND EFFECTS**

**SECTION 1. 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 Republic Act No. 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 2. 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 V  
SPECIAL PROVISIONS**

**SECTION 1. EFFECTS 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

*John O. Jim*

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 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 any dispute arising from wage distortion shall not in any way delay the applicability of the increase prescribed in the Order and such issue shall not be ground for strike/lockout.

**SECTION 2. PRODUCTIVITY AND OTHER PERFORMANCE INCENTIVE PROGRAMS (PIP).** In order to sustain rising levels of wages and to 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 3. 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 having jurisdiction over the workplace and shall be subjected to the mandatory thirty (30) days conciliation and mediation process under the Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

**SECTION 4. NON-DIMUNITION 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 5. 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.

John O. Feat

**SECTION 6. 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 7. 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, 2017 and every year thereafter in accordance with the form prescribed by the Commission.

**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 Pesos (Php25,000.00) nor more than One Hundred Thousand Pesos (Php100,000.00) 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 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. 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 10. 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 11. ADVISORY ON PRODUCTIVITY BASED PAY.** Pursuant to the Two-Tiered Wage System, the Board shall issue corresponding advisories on the 2<sup>nd</sup> tier or the productivity-based pay which shall serve as guidelines for private establishments on the range of productivity bonuses and incentives that an enterprise may provide based on agreement between workers and management.

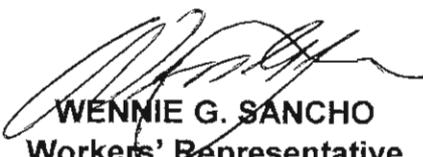
**SECTION 12. EFFECTIVITY.** These Rules shall take effect on \_\_\_\_\_.

Done in Iloilo City, Philippines, \_\_\_\_\_.

  
**LUIS R. ESTRELLA**  
Employers' Representative

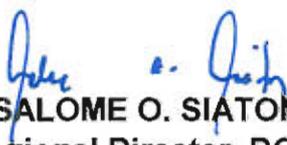
  
**HERNANE P. BRAZA**  
Workers' Representative

  
**JOHN PETER Z. MILLAN**  
Employers' Representative

  
**WENNIE G. SANCHO**  
Workers' Representative

  
**REBECCA M. RASCON**  
OIC Regional Director, DTI - VI  
Vice-Chairperson

  
**RO-ANN A. BACAL**  
Regional Director, NEDA - VI  
Vice-Chairperson

  
**SALOME O. SIATON**  
OIC Regional Director, DOLE - VI  
Chairperson

Approved this 22 day of March, 2017, in the City of Manila, Philippines

  
**SILVESTRE H. BELLO, III**  
Secretary  
DEPARTMENT OF LABOR AND EMPLOYMENT

