

Republic of the Philippines
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region VIII

WAGE ORDER NO. RB VIII-01

WHEREAS, the Gulf Crisis has resulted in the withdrawal from the world market of oil from Iraq and Kuwait and despite increased production from other producers the oil supply continues to be uncertain, thus raising oil prices;

WHEREAS, the effect of this crisis and the adjustment in the value of the Philippine peso vis-a-vis the US dollar have made it imperative to increase the prices of domestic petroleum products by an average of P1.42 per liter on 21 September 1990;

WHEREAS, such adjustments have contributed to a substantial increases in transportation fares and prices of basic goods and services;

WHEREAS, in addition to the efforts of government to hold down prices of basic goods, it is necessary to provide workers and their families with immediate relief measures to enable them to cope with the rising cost of living, without impairing the viability of business and industry;

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

Section 1. Upon the effectivity of this Wage Order, the statutory minimum wage rates applicable to workers and employees in the private sector in Region VIII shall be increased by P6.00 per day in the province of Southern Leyte, Sub-Province of Biliran, Western Samar, Eastern Samar, Northern Samar and the City of Calbayog, and P10.00 per day in Tacloban City, Ormoc City and Leyte Province.

Section 2. In the case of private educational institutions, the share of covered workers and employees in the increase of tuition fees for school year 1990 shall be credited as compliance with the wage increase prescribed herein. Where their share is less than the wage increase provided herein, the employer shall pay the difference.

Section 3. Exempted from the provisions of this Wage order are household or domestic helpers and persons in the personal service of another, including family drivers.

Retail/Service establishments regularly employing not more than ten workers and countryside and barangay business enterprises (CBBEs) duly registered pursuant to RA 6810 may be exempted from this Wage order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations.

Distressed employers whose capital has been impaired by at least twenty-five percent (25%) during the preceding year may be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations. The Regional Board has the option to grant full or partial exemption to such distressed employers, the allowed maximum period of exemption being one (1) year.

Whenever an application for exemption has been filed with the Regional Board, action by the Regional Office of the Department of Labor and Employment on any complaint for alleged non-compliance with this Wage Order shall be deferred pending resolution of the application for exemption by the Regional Board.

In the event that an application for exemption is not granted, covered workers and employees shall receive the appropriate compensation due to them as provided for in this Wage Order plus interest of one percent (1%) per month retroactive to the effectivity of this Wage Order.

Section 4. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage increase for covered workers shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed increase the construction/service contractors shall be jointly and severally liable with principal or client.

Section 5. All workers paid by results, including those who are paid on piecework, takay, pakyaw or task basis, shall be entitled to receive the prescribed minimum wage increase 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.

Section 6. Wage increases granted by an employer from August 1, 1990 to the effectivity of this Wage Order shall be credited as compliance with the minimum wage increase prescribed under this Wage Order, provided that, where such increases are less than the prescribed adjustment, the employer shall pay the difference. Such increases shall not include anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employees.

Section 7. Where the application of the prescribed minimum wage increase under this Wage Order results in distortion of the wage structure in any establishment, such distortion shall be corrected using the procedure specified under Article 124 of the Labor Code, as amended.

Section 8. The Regional Board shall prepare the necessary rules and regulations to implement this Wage Order, subject to the approval of the Secretary of Labor and Employment.

Section 9. Any employer who refuses or fails to pay the minimum wage increase provided under this Wage Order shall be subject to the penalties specified under RA 6727.

Section 10. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or other benefits under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between workers and employers.

Section 11. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

Approved this 10th day of November 1990.

(SGD) DIR. RICARDO S. MARTINEZ, SR.
Chairman

(SGD) DIR. ROMEO ESCANDOR
Vice-Chairman

(SGD) DIR. VICTOR DOMINGO
Vice-Chairman

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(SGD) ATTY. PHILIP MONTANCES
Workers Representative

(SGD) DR. VIRGINIO ASTILLA
Employers Representative

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(SGD) MR. MANUEL PORE
Workers Representative

(SGD) MR. HERCULANO DUHAYLUNGSOD
Employers Representative

* *Dissented*

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

RULES IMPLEMENTING WAGE ORDER NO. VIII-01

Pursuant to the authority granted to the Regional Tripartite Wages and Productivity Board under Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 8 of Wage Order No. VIII-01, the following rules are hereby issued for guidance and compliance by all concerned:

Chapter I - Definition of Terms

SECTION 1. Definition of Terms. - As used in this Rules,

- a) "Order" means Wage Order No. VIII-01;
- b) "Board" means the Regional Tripartite Wages and Productivity Board of Region VIII;
- c) "Commission" means the National Wages and Productivity Commission;
- d) "Department" means the Department of Labor and Employment;
- e) "Region VIII" covers the provinces of Leyte, Southern Leyte, Northern Samar, Western Samar, Eastern Samar, and the sub-province of Biliran, and the cities of Tacloban, Ormoc and Calbayog;
- f) "Distressed Establishments" refer to establishments with capital impairment in the preceding year as may be determined by the Board;
- g) "Statutory Minimum Wage" is the lowest wage rate fixed by law that an employer can pay his workers;
- h) "Minimum Wage Rates" refer to the lowest basic wage rates that an employer can pay his workers, as fixed by the Board, and which shall not be lower than the applicable statutory minimum wage rates;
- I) "Wage Distortion" means a situation where an increase in prescribed 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;
- j) "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 activities performed by a farmer 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;
- k) "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprises";

- l) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- m) "Service Establishment" is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such;
- n) "Cottage/Handicraft Establishment" is one engaged in an economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship and/or whose capitalization does not exceed P500,000.00, regardless of previous registration with the defunct NACIDA.

Chapter II - Wage Increase

Section 1. Coverage. - The wage increase prescribed under the Order shall apply to all workers and employees in the private sector in Region VIII who, prior to the effectivity of the Order were receiving the applicable statutory minimum wage rate or its monthly equivalent, regardless of their position, designation or status, and irrespective of the method by which their wages are paid except:

- i) Household or domestic helpers, including family drivers and workers in the personal service of another;
- ii) Workers and employees in retail/service establishments regularly employing not more than 10 workers, when exempted from compliance with the Order, for a period fixed by the Board in accordance with Section 8, Chapter II of this Rules;
- iii) Workers and employees of distressed establishments, when exempted from compliance with the Order, for period fixed by the Board in accordance with Section 8, Chapter II of this Rules.

Section 2. Effectivity. - The minimum wage increase provided under the Order takes effect on December 9, 1990, 15 days following its complete publication in a newspaper of general circulation on November 24, 1990 pursuant to Section 11 thereof.

Section 3. Amount of Minimum Wage Increase. - Effective December 09, 1990, the daily statutory minimum wage rates of covered workers and employees shall be increased as follows:

- i) P10.00 per day in the province of Leyte and the cities of Tacloban and Ormoc.
- ii) P 6.00 per day in the provinces of Southern Leyte, Northern Samar, Western Samar, Eastern Samar, Biliran sub-province and Calbayog City.

Section 4. Daily Minimum Wage Rates. a) The resulting applicable daily minimum wage rates of workers and employees in Region VIII are herewith attached as Annex A of this Rules.

b) Without prejudice to existing company practices, agreements or policies, the suggested formula herein attached as Annex B may be used as guides in determining the equivalent monthly minimum wage rates.

Section 5. Creditable Wage Increase. a) Wage increases granted by an employer from August 01, 1990 up to the effectivity of the order shall be credited as compliance with the wage increase prescribed under the Order. Where the wage increase granted is less than the prescribed increase, the employer shall pay the difference.

b) Anniversary wage increases provided in collective bargaining agreement, merit wage increases, and those resulting from regularization or promotion of employees shall not be credited as compliance thereto.

Section 6. Application to Private Educational Institutions. With respect to private educational institutions, the share of the covered workers and employees in the increase in tuition fees for

school year 1990 shall be credited as compliance with the wage increase prescribed under the Order. Where their share is less than the wage increase provided in the order, the employer shall pay the difference.

In case where the tuition fee increase was effected on or after the effectivity of the order, the wage increase shall take effect not later than the date the school actually increased tuition fees but in the later cases such wage increase may not be retroactive to December 9, 1990.

Section 7. Application to Contractors. - In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8. Exemption. - a) The following establishments may be exempted from compliance with the wage increase prescribed under the Order upon application with and as determined by the Board in accordance with applicable rules and regulations issued by the Commission:

- i) Retail/Service establishments regularly employing not more than ten (10) workers;
- ii) Distressed establishments whose capital has been impaired by at least twenty-five percent (25%) during the year preceding the application;

b) The Board has the option to grant full or partial exemption for a period not exceeding one (1) year from the effectivity of the Order.

c) Whenever an application for exemption has been duly filed with the Board, action by the Regional Office of the Department in Region VIII on any complaint for alleged non-compliance with the Order shall be deferred pending resolution of the said application;

d) In the event that the application for exemption is not granted, the workers and employees shall receive the appropriate compensation due them as provided for under the Order plus compounded interest of one percent (1%) per month retroactive to December 09, 1990.

Section 9. Basis of Minimum Wage Rates. - The minimum wage rates prescribed under the order shall be for the normal working hours, which shall not exceed eight (8) hours of work a day.

Section 10. Workers Paid by Results. - (a) All workers paid by results including those who are paid on piece work, 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 work of less than the normal working hours.

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

- i)
$$\frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}} \times 100 = \% \text{ increase}$$
 - ii) Existing rate/piece X % increase = increase in rate/piece
 - iii) Existing rate/pc. + increase in rate/pc. = adjusted rate/piece
- *Where AMW is the applicable minimum wage rate.

b) The wage rates of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code, as amended and its implementing regulations.

Section 11. Wage of Special Groups of Workers. - Wages of apprentices, learners, and handicapped workers shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates.

All recognized learnership and apprenticeship agreements entered into before December 09, 1990 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increase prescribed under the Order.

Section 12. Wage Distortion. - Any distortion in the wage structure within an establishment arising from the application of the wage increase provided under the Order shall be corrected according to the following procedure:

- a) In unionized establishments with an existing collective bargaining agreement, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved through the grievance procedure under their collective bargaining agreement and, if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.
- b) In cases where there are no collective bargaining agreements or recognized labor unions, the employers and the workers shall endeavor to correct the wage distortion. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board (NCMB) and, if it remains unresolved after 10 calendar days of conciliation, it 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 20 calendar days from the time said dispute is submitted for compulsory arbitration.

The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of any wage increase prescribed under the Order.

Any issue involving wage distortion shall not be a ground for a strike/lockout.

Section 13. Complaints for Non-Compliance. - Complaints for non-compliance with the wage increase provided in the Order shall be filed with the Regional Office of the Department in Region VIII and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 14. Non-Diminution of Benefits. - Nothing in the Order and this Rules shall be construed as authorizing the reduction of any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreements between the workers and employers or employer practices or policies.

Section 15. Penal Provision. - Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase under the Order shall be punished by a fine not exceeding P25,000.00 and/or imprisonment of not less than one (1) year nor more than two (2) years. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

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 16. Prohibition Against Injunction. - No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceeding before the Board.

Section 17. Effects on Other Issuances. - The provisions of existing laws and decrees on wages and their implementing rules and regulations and issuances not otherwise repealed, modified or inconsistent with the Order and this Rules shall continue to have full force and effect.

Section 18. Effectivity. - This Rules shall take effect on December 09, 1990.

Done in Tacloban City, Republic of the Philippines, this 6th day of December 1990.

(SGD) RICARDO MARTINEZ, SR.
Chairman

(SGD) VICTOR A. DOMINGO
Vice-Chairman

(SGD) JOSE ROMEO C. ESCANDOR
Vice-Chairman

(Atty.) PHILIP B. MONTANCES
Worker's Representative

As Dissented in Wage Order
(SGD) MANUEL C. PORE
Worker's Representative

(SGD) HERCULANO A. DUHAYLUNGSOD
Employer Representative

(SGD) DR. VIRGINIO A. ASTILLA
Employer Representative

Approved this 13th day of December 1990.

(SGD) RUBEN D. TORRES
Secretary

ANNEX A

Daily Statutory Minimum Wage Rates - The daily statutory wage rates of workers and employees in Region VIII shall be as follows:

		Under W.O. No. VIII-01 (Effective December 9, 1990)	
		Leyte Province,	Southern Leyte,

SECTOR/INDUSTRY	Under RA 6727 (Effective July 1, 1989)	Tacloban City and Ormoc City (+P10.00/d)	Northern Leyte, Western Samar, Eastern Samar, Biliran and Calbayog City (+P6.00/d)
NON-AGRICULTURE	89.00	99.00	95.00
AGRICULTURE			
Plantation with annual gross sales of P5M or more	79.00	89.00	85.00
Plantation with annual gross sales of less than P5M	74.00	84.00	80.00
Non-Plantation	58.50	68.50	64.50
COTTAGE/HANDICRAFT			
Employing more than 30 workers	67.00	77.00	73.00
Employing not more than 30 workers	65.00	75.00	71.00
PRIVATE HOSPITALS	85.00	95.00	91.00
RETAIL/SERVICE			
Cities with population of more than 150,000			
Employing more than 15 workers	89.00	99.00	95.00
Employing 11 to 15 workers	85.00	95.00	91.00
Employing not more than 10 workers	58.00	68.00	64.00
Cities and Municipality with population of not more than 150,000			
Employing more than 10 workers	85.00	95.00	91.00
Employing not more than 10 workers	58.00	68.00	64.00
SUGAR			
Mills	91.00	101.00	97.00
Agriculture			
Plantation with annual gross sales of P5M or more	73.50	83.50	79.50
Plantation with annual gross sales of less than P5M	68.50	78.50	74.50
Non-Plantation	58.50	68.50	64.50
BUSINESS ENTERPRISES WITH CAPITALIZATION OF NOT MORE THAN P500,000 AND EMPLOYING NOT MORE THAN 20 WORKERS			
Non-Agriculture	79.00	89.00	85.00
Agriculture Plantation			
Products other than Sugar	69.00	79.00	75.00
Sugar	63.50	73.50	69.50
Private Hospitals	75.00	85.00	81.00
Retail/Service			
Cities with population of more than 150,000			
Employing more than 15 workers	79.00	89.00	85.00
Employing 11 to 15 workers	75.00	85.00	81.00
Cities and Municipalities with population of not more than 150,000			
Employing more than 10 workers	75.00	85.00	81.00
COUNTRYSIDE AND BARANGAY BUSINESS ENTERPRISES REGISTERED UNDER RA 6810 (Kalakalan 20)			
A. Covered by RA 6727			
Non-Agriculture	79.00	89.00	85.00
Cottage/ Handicraft	65.00	75.00	71.00
Agriculture Plantation			
Sugar	63.50	73.50	69.50
Other Crops	69.00	79.00	75.00
Agriculture Non-Plantation	58.50	68.50	64.50
B. Exempted from RA 6727			
Non-Agriculture	64.00	74.00	70.00
Cottage/ Handicraft	50.00	60.00	56.00
Agriculture Plantation			
Sugar	48.50	58.50	54.50
Other Crops	54.00	64.00	60.00
Agriculture Non-Plantation	43.50	53.50	49.50

ANNEX "B"

SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY MINIMUM WAGE RATES

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

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

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable daily wage rate (ADR)} \times 390.90 \text{ days}}{12}$$

Where 390.90 days =

302	days	= Ordinary working days
20	days	= 10 regular holidays x 200%
66.30	days	= 51 rest days x 130%
		2/
<u>2.60</u>	<u>days</u>	= 2 special days x 130%
390.90	days	= Total equivalent number of days.

1/

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

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

Where 365 days =

302	days	= Ordinary working days
51	days	= Rest days
10	days	= Regular holidays
		2/
<u>2</u>	<u>days</u>	= 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:

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

Where 314 days =

302	days	= Ordinary working days
10	days	= Regular Holidays
		2/
<u>2</u>	<u>days</u>	= Special Days (if considered paid; if actually worked, this is equivalent to 2.6 days)
314	days	= Total equivalent number of days

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

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

Where 262 days =

250	days	= Ordinary working days
10	days	= Regular Holidays
		2/
<u>2</u>	<u>days</u>	= Special Days (if considered paid; if actually worked, this is equivalent to 2.6 days)
262	days	= Total equivalent number of days

1/ Includes premium for holidays, special and rest days.

2/ November 1 and December 31 under Executive Order No. 203 dated June 30, 1987

Note: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being a regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them is included in the ten regular holidays. For workers whose rest days do not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

Nothing herein shall be construed as authorizing the reduction of benefits granted under existing agreements or employer , practices/policies.