

WAGE ORDER NO. RB VIII-10
PROVIDING FOR THE GRANT OF AN
EMERGENCY COST OF LIVING ALLOWANCE IN
WESTERN VISAYAS

WHEREAS, the Associated Labor Unions (ALU)-TUCP filed a Petition for Wage Increase with the Regional Tripartite Wages and Productivity Board, Eastern Visayas on September 13, 2001;

WHEREAS, the Regional Board following the Rules of Procedure on Minimum Wage Determination conducted Public Consultations in Northern Samar on October 17, 2001, Samar on October 18, 2001, Eastern Samar on October 24, 2001, Ormoc City of November 6, 2001, Southern Leyte on November 13, 2001, Biliran on November 15, 2001 and a Regional Public Hearing in Tacloban City on November 28, 2001;

HEREAS, this Regional Board finds it imperative that the lowly paid workers in the region be granted relief through the grant of an Emergency Cost of Living allowance to cope with the increasing cost of living without impairing the viability of business in the region;

NOW THEREFORE, by virtue of the power and authority vested under Republic Act 6727, known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Eastern Visayas issues this Wage Order.

Section 1. AMOUNT AND EFFECTIVITY OF ECOLA. Upon effectivity of this Wage Order, all workers and employees in the private sector in Eastern Visayas presently receiving the minimum wage rates prescribed by Wage Order No. RB VIII-09 shall receive an Emergency Cost of Living Allowance in the amount of ELEVEN PESOS (PhP11.00) per day.

Section 2. BASIS OF ECOLA. The Emergency Cost of Living Allowance prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours a day.

Section 3. COVERAGE OF ECOLA. The ELEVEN PESOS ECOLA prescribed under this Order shall cover all workers prescribed under Section 1 of this Order regardless of their position, designation or status.

Not covered are household or domestic helpers and persons in the personal service of another, including family drivers.

Section 4. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piecework, takay, pakyaw or task basis, shall be entitled to receive the prescribed ECOLA per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours a day.

Section 5. ECOLA OF SPECIAL GROUPS OF WORKERS. Emergency cost of Living Allowance 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 prescribed ECOLA.

Section 6. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the Emergency Cost of Living Allowance prescribed under this Order shall take effect at the time they have actually increased tuition fees. However, covered workers and employees shall be granted the ECOLA prescribed hereof at the opening of School Year 2002-2003 regardless of whether or not an increase in tuition fees has been effected by private educational institutions.

Section 7. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed Emergency Cost of Living Allowance of workers prescribed under 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 principal or client fails to pay the prescribed ECOLA, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8. EXEMPTIONS.

A. Coverage

1. Automatic Exemption. Households or domestic helpers and persons in the personal service of another including family drivers are not covered by the provisions of this Order.
2. Non-Automatic Exemption. The following may, however be exempted from the Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations:
 - a. Retail/Service establishments regularly employing not more than ten (10) workers;
 - b. Distressed establishments in accordance with Section 3 (A) of NWPC Guidelines No. 01, Series of 1996;
 - c. New Business Enterprises established within two (2) years from the date of effectivity of this Order based on the latest registration with the appropriate government agencies such as SEC, DTI, CDA and Mayor's Office.

B. 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 the NWPC Guidelines No. 1, Series of 1996.

However, a partial exemption of 50% with respect to the amount or period of exemption shall be granted only in the case of distressed establishments as follows:

a) For corporations/cooperatives

When the deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the order amounts to less than 20% of the paid-up capital of the same period.

b) For single proprietorships/partnerships

When the net accumulated losses for the period under review amounts to at least 15% but less than 20% of the total invested capital at the beginning of the period under review.

c) Non-stock non-profit organizations

When the net accumulated losses for the period under review preceding the effectivity of the Order amounts to at least 15% but less than 20% of the fund balance/members' contribution at the beginning of the period under review.

In the case of New Business Enterprises, the reckoning date for the period of exemption shall be the date of start of operations/hiring of workers provided that it is within two (2) years from the date of effectivity of the Order.

C. Procedure. An application in three (3) legible copies may be filed with the Regional Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. Application shall be filed not later than seventy-five (75) days from the date of publication of the approved Rules Implementing this Order.

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

- D. Workers Opposition. Any worker, or, if unionized, the union in the applicant establishment, may file with the Regional Board within fifteen (15) days from receipt of the notice, an opposition to the application for exemption stating the reasons why the same should not be approved, furnishing the applicant a copy thereof.
- E. Effect of Application for Exemption Filed on Complaint for Alleged Non-Compliance. When 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 Order shall be deferred pending resolution of the application for exemption by the Regional Board.
- F. Effect of Disapproved Application. In the event that an application for exemption is not granted, covered workers and employees shall receive the appropriate compensation due them as provided in this Order plus simple interest of one percent (1%) per month retroactive to the effectivity of this Order or the date of the actual start of operations/hiring of workers in the case of New Business Enterprises.
- G. Motion for Reconsideration. The aggrieved party may file with the Regional Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt thereof and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.
- H. Appeal. Any party aggrieved by the decision of the Regional Board may file an appeal to the National Wages and Productivity Commission through the Regional Board in two (2) typewritten legible copies, not later than ten (10) days from receipt of the decision.
- I. Opposition. The appellee may file with the Regional Board his reply or opposition to the appeal within ten (10) days from receipt thereof. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.

Section 9. APPEAL TO THE COMMISSION. Any aggrieved party by this Wage Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of this Order.

Section 10. EFFECT OF FILING OF APPEAL. The filing of the appeal does not 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 of the corresponding ECOLA to employees affected by the Order in the event such an Order is affirmed.

Section 11. NON-CREDITABLE WAGE INCREASES. Anniversary wage increase provided in the Collective Bargaining Agreement, merit wage increase and those resulting from regularization or promotion of employees shall not be credited as compliance to the ECOLA prescribed under this Order unless otherwise provided in the CBA itself.

Section 12. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the ECOLA under this Order results in the distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Art. 124 of the Labor Code as amended.

Section 13. 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 (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 14. 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 15. PENAL PROVISION. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed ECOLA in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

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 proceedings before the Board.

Section 17. FREEDOM TO BARGAIN This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 18. 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, 2002 and every year thereafter in accordance with the form prescribed by the National Wages and Productivity Commission.

Section 19. REPEALING CLAUSE. All laws, orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

Section 20. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 21. IMPLEMENTING RULES. The Board shall prepare the necessary rules to implement this Order subject to the approval of the Secretary of Labor and Employment.

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

Approved this 19TH day of December 2001, at Tacloban City.

(Signed) HERCULANO A. DUHAYLUNGSOD Employers' Representative	(Signed) MANUEL C. PORE Workers' Representative
(Signed) JORGE D. YU Employers' Representative	(Signed) MA CIELO V. MARTINEZ Workers' Representative
(Signed) BUENAVENTURA C. GO-SOCO, JR. Regional Director, NEDA Vice-Chairman	(Signed) CYNTHIA R. NIERRAS Regional Director, DTI Vice-Chairman
(Signed) CARLOS L. BOTEROS Chairman	

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

Rules Implementing Wage Order No. RB VIII-10
Rule 1 - General Provisions

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 21 of Wage Order No. RB VIII-09 the following rules are hereby issued for guidance and compliance of all concerned.

Section 1. Title. This Rules shall be known as the "Rules Implementing Wage Order No. RB VIII-10."

Section 2. Definition of Terms. As used in this Rules.

- a) "Order" means Wage Order No. RB VIII-10;
- b) "Regional 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, Biliran, Samar, Eastern Samar, Northern Samar and the cities of Tacloban, Ormoc, Maasin and Calbayog;
- f) "DTI" means the Department of Trade and Industry;
- g) "CDA" means the Cooperative Development Authority;
- h) "SEC" means the Securities and Exchange Commission;
- i) "ECOLA" means Emergency Cost of Living Allowance prescribed under this Order;
- j) "Minimum Wage Rates" refer to the lowest basic wage rates that an employer can pay his workers, as fixed by the Regional Board, and which shall not be lower than the applicable statutory minimum wage rates;
- k) "Statutory Minimum Wage" is the lowest wage rate fixed by law that an employer can pay his workers;
- l) "Wage Distortion" means the situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions in such wage structure based on skills, length of service, or other bases of differentiation;
- m) "CBA" means Collective Bargaining Agreement which refers to the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work, and all other terms and conditions of employment in a bargaining unit, including mandatory provisions for grievance and arbitration machineries;
- n) "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 or processing of sugar, coconut, abaca, pineapple, aquatic or other farm products;
- o) "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprise";
- p) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;

- q) "Service Establishment" is one principally engaged in the sale of service to individuals for their own household and is generally recognized as such;
- r) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3 (A) of the NWPC Guidelines No. 01, Series of 1996;
- s) "New Business Enterprises" refer to establishments outside export processing zones, including non-profit institutions, established within two (2) years from effectivity of the Order based on the latest registration with the appropriate government agencies such as SEC, DTI, CDA and Mayor's Office;
- t) "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 PhP1,500,000.00 regardless of previous registration with the defunct NACIDA.

Rule II. Emergency Cost of Living Allowance

Section 1. Amount and Effectivity of ECOLA. Upon effectivity of this Wage Order, all workers and employees in the private sector in Eastern Visayas presently receiving the minimum wage rates prescribed by Wage Order No. RB VIII-09 shall receive an Emergency Cost of Living Allowance in the amount of ELEVEN PESOS (PhP11.00) per day.

Section 2. Coverage. The Emergency Cost of Living Allowance prescribed under the Order shall apply to all workers and employees in the private sector in Region VIII receiving the applicable minimum wage rates or its monthly equivalent under Wage Order No. RB VIII-09 regardless of their position, designation or status, and irrespective of the method by which their wages are paid except:

- a) Household or domestic helpers, including family drivers and workers in the personal service of another;

Section 3. Basis of ECOLA. The ECOLA prescribed herein shall be for the normal working hours, which shall not exceed eight hours work a day.

Section 4. Non-Creditable Wage Increase. Anniversary wage increases provided in the CBA, merit wage increases and those resulting from regularization or promotion of employees shall not be credited as compliance to ECOLA prescribed under the Order unless otherwise provided in the CBA itself.

Section 5. Application to Private Educational Institutions. Private educational institutions shall be required to comply with the ECOLA prescribed under the Order at the time they have actually increased tuition fees. However, covered workers and employees shall be granted the ECOLA prescribed thereof at the opening of school year 2002-2003 regardless of whether or not an increase in tuition fees has been effected by private educational institutions.

Section 6. Application to Contractors. In the case of contracts for construction projects and for security, janitorial services and similar services, the prescribed ECOLA 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 ECOLA, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 7. Workers Paid by Results. All workers paid by results, including those who are paid on piecework, takay, pakyaw or task basis, shall receive not less than the ECOLA 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 rates for workers paid by results shall be computed in accordance with the following steps:

- a). $\frac{\text{Amount of ECOLA}^*}{\text{Previous AMW}^{**}} \times 100 = \% \text{ increase}$
- b) Existing rate/piece X % increase = Increase in rate/piece;
- c) Existing rate/piece + Increase in rate/piece = Adjusted rate/piece

*ECOLA is the emergency cost of living allowance
 ** Where AMW is the applicable minimum wage rate.

The ECOLA 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 8. Wages of Special Groups of Workers. Wages of apprentices and learners shall in no case be less than 75 percent of the ECOLA prescribed by the Order.

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

Section 9. Suggested Formula in Determining the Equivalent Monthly ECOLA. Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly ECOLA rates:

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

$$\frac{\text{Equivalent Monthly ECOLA (EME)}}{12} = \frac{\text{Applicable Daily Rate (ADR)} \times 391.50 \text{ days}}{12}$$

Where 391.50 days:

- 302 days - Ordinary working days
- 18 days - 9 regular holidays X 200%
- 2.6 days - 1 regular holiday falling on last Sunday of August X 200% + (30% of 200%)
- 66.30 days - 51 rest days X 130%
- 2.60 days - 2 special days X 130%
- 391.50 days - Total equivalent number of days

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

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

Where 365 days:

- 302 days - Ordinary working days
- 51 days - Rest days
- 10 days - Regular holidays
- 2 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:

$$\text{EME} = \frac{\text{ADR} \times 314.6 \text{ days}}{12}$$

Where 314.6 days:

- 302 days - Ordinary working days
- 10 days - Regular holidays
- 2.6 days - 2 Special days (if worked) X 130%
- 314.6 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:

$$\text{EME} = \frac{\text{ADR} \times 262.6 \text{ days}}{12}$$

Where 262.6 days:

- 250 days - Ordinary working days
- 10 days - Regular holidays
- 2.6 days - 2 Special days (if worked) X 130%
- 262.6 days - Total equivalent number of days

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

Section 10. Mobile and Branch Workers. The statutory minimum wage rates of workers who by nature of their work have to travel shall be those applicable in the domicile or head office of the employer.

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

Section 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 the other regions with higher wages shall be entitled to the minimum wage rates applicable therein.

Section 12. Appeal to the Commission. Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide on the appeal within sixty (60) 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 such Order is affirmed.

Rule III. Exemptions

Section 1. Coverage.

1. Non-Automatic Exemption. The following, may however, be exempted from the Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations:
 - a) Retail/Service establishments regularly employing not more than ten (10) workers;

- b) Distressed establishments in accordance with Section 3 (A) of NWPC Guidelines No. 01, Series of 1996;
- c) New Business Enterprises outside export processing zones, including non-profit institutions, established within two (2) years from the date of effectivity of the Order based on the latest registration with the DTI, SEC, CDA and Mayor's Office.

Section 2. 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. 01, Series of 1996.

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

- a) For corporations/cooperatives

When deficit as of last full accounting period or interim period, if any, immediately preceding the effectivity of the Order amounts to less than 20% of the paid-up capital of the same period.

- b) For single proprietorship/partnerships

When the net accumulated losses for the period under review amounts to at least 15% but less than 20% of the total invested capital at the beginning of the period under review.

- c) Non-stock non-profit organizations

When the accumulated losses for the period under review preceding the effectivity of the Order amounts to at least 15% but less than 20% of the fund balance/member's contribution at the beginning of the period under review.

In the case of New Business Enterprises, the reckoning date for the period of exemption shall be the date of the start of business operations provided that it is established within two (2) years from the date of effectivity of the Order.

Section 3. Procedure. An application, in two (2) typewritten copies may be filed with the Regional Board by the owner/manager or duly authorized representative of an establishment, in person or by mail. Application shall be filed not later than seventy-five (75) days from the date of publication of the Rules Implementing the Order duly approved by the Secretary of Labor and Employment.

New Business Enterprises shall file their application with the Regional Board not later than sixty (60) days from the date of registration with the appropriate government agency.

The application shall be under oath and accompanied by complete supporting documents as provided for under Section 4 of the NWPC Guidelines No. 01, Series of 1996.

Section 4. Workers' Opposition. Any worker, or if unionized, the union in the applicant establishment, may file with the Regional Board within fifteen (15) days from receipt of notice, an opposition to the application for exemption stating therein the reasons why the same should not be approved, furnishing the applicant a copy thereof. The fifteen (15) day period shall run only upon receipt of complete supporting documents. The opposition shall be in two (2) typewritten copies, under oath and accompanied by the pertinent documents, if any.

Section 5. Effect of Filing of 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. Effect of Disapproved Application for Exemption. In the event that the application for exemption is not approved, covered workers shall be paid the mandated ECOLA as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

In the case of New Business Enterprises, the granting of the ECOLA by reason of a disapproved application for exemption shall be retroactive to the start of business operations/hiring of workers.

Section 7. Motion for Reconsideration. An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt of the decision, stating the particular grounds upon which the motion is based, copy furnished the other party and the Regional Office of the Department.

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

Section 8. Appeal. Any party aggrieved by the decision of the Regional Board may file an appeal to the NWPC through the Regional Board in two (2) typewritten legible copies, not later than ten (10) days from 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 appellant received the decision, the grounds relied upon and the arguments in support thereof.

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

Section 9. 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 Regional Board; or
- c) Questions of law.

Section 10. Opposition. The appellee may file with the Regional Board his reply or opposition to the appeal within ten (10) days from receipt thereof. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.

Rule IV - Special Provisions

Section 1. Effect on Existing Wage Structure. Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortions through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time such dispute was referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

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

Section 2. Complaints for Non-Compliance. Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended.

Section 3. Conduct of Inspection by the Department. The Department shall conduct inspections of establishments, as often as necessary, to determine whether the workers are paid the prescribed ECOLA and other benefits granted by law or any Wage Order.

In the conduct of inspection in unionized companies. Department inspectors shall always be accompanied by the president or other responsible officer of the recognized bargaining unit or of any interested union. In the case of non-unionized establishments, a worker representing the workers in the said company will accompany the inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not concur with the findings of the labor inspector.

Section 4. Non-Diminution of Benefits. Nothing in the Order and in this Rules shall be construed to reduce any existing wage rates, allowances and other benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and employers.

Section 5. Penal Provision. Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in the Order shall be punished by a fine of not less than Twenty five thousand pesos (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 for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to employees. Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposed under RA 8188.

If the violation is committed by a corporation, trust or firm, partnership, association or any entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner.

Section 6. Prohibition Against Injunction. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or Boards.

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. Reporting Requirement. Any 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, 2002 and every year thereafter in accordance with the form prescribed by the Commission.

Section 9. Repealing Clause. All laws, orders, issuances, rules and regulation on wages, or parts thereof inconsistent with the provisions of the Order and this Rules are hereby repealed, amended or modified accordingly.

Section 10. Separability Clause. If any provision or part of the Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the

Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 11. Effectivity of Rules. This Rules shall take effect upon effectivity of the Order.

Done in Tacloban City this 19th day of December 2001.

(Signed) HERCULANO A. DUHAYLUNGSOD Employers' Representative	(Signed) MANUEL C. PORE Workers' Representative
(Signed) JORGE D. YU Employers' Representative	(Signed) MA CIELO V. MARTINEZ Workers' Representative
(Signed) BUENAVENTURA C. GO-SOCO, JR. Regional Director, NEDA Vice-Chairman	(Signed) CYNTHIA R. NIERRAS Regional Director, DTI Vice-Chairman
(Signed) CARLOS L. BOTEROS Chairman	

Approved this 23rd day of January, 2002. Approved this 23rd day of January, 2002.
Approved this 23rd day of January, 2002.

(Sgd.) **PATRICIA A. STO. TOMAS**
Secretary
Department of Labor and Employment