

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

WAGE ORDER NO. RB VIII-02
PROVIDING FOR AN EMERGENCY COST OF LIVING ALLOWANCE

WHEREAS, on December 5, 1990 the Energy Regulatory Board unilaterally increased the prices of all domestic petroleum products by an average of 50.61% per liter;

WHEREAS, such unprecedented move by the Board has triggered significant increase in transportation fares and prices of basic goods and services thereby contributing to the present socio-economic crisis;

WHEREAS, among the sectors adversely affected by this new round of increases are the lowly paid workers and their families;

WHEREAS, the latest wage increases granted under Wage Order RB VIII-01 are not adequate to meet the basic needs of the workers and their families because such were granted before the prices of all domestic fuel products were increased;

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

WHEREAS, the grant of emergency cost of living allowances is the only expeditious way of providing immediate relief to workers taking into consideration the socio-economic condition prevailing in Region VIII and the adverse effects brought about by the increase in prices;

NOW THEREFORE, by virtue of the power 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, all employees and workers in the private sector presently receiving a daily wage of P200.00 and below shall be granted an emergency cost of living allowance of P300.00 a month.

Section 2. The ECOLA granted under this Wage Order shall not be considered as part of the regular wage of the covered workers for purposes of computing wage related benefits such as 13th month pay, overtime and premium pay, night differential pay as well as premium contribution to the State Insurance Fund, SSS, Medicare, Pag-ibig, and others;

Section 3. The payment of ECOLA herein granted shall apply to all qualified workers and employees in the educational institutions as soon as the latter have increased or been granted the authority to increase tuition fee during the second semester of school year 1990-91;

Section 4. 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 (10) workers 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, during the effectivity of this Wage Order;

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 complaints 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 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 5. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed ECOLA of covered workers and employers shall be borne by the principals or client of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, the principal or client fails to pay the prescribed allowance the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 6. The ECOLA granted under this Wage Order shall be credited as partial compliance to any mandated Wage Increase which may be issued by the Regional Board in the future or after the effectivity of this Wage Order should the Wage increase be higher than what is provided herein;

Section 7. Where the application of the cost of living allowances prescribed herein result in distortions of the pay structure within an establishment such distortion shall be resolved using the procedure specified under Article 124 of the Labor Code of the Philippines;

Section 8. All workers paid by result including those who are paid on piece work, takay or pakyao basis shall be entitled to receive the prescribed ECOLA;

Section 9. In lieu of ECOLA prescribed under this Wage Order, employers may grant wage increase which shall be considered as compliance with this Wage Order, provided the amount is not less than what is required herein;

Section 10. The Regional Board shall prepare the necessary rules and regulations to implement this Wage Order, subject to approval of the Secretary of Labor and Employment;

Section 11. Any employer who refuses or fails to pay the ECOLA provided under this Wage Order shall be subject to the penalties specified under Section 12 of R.A. 6727;

Section 12. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or part shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or other benefit under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between workers and employers;

Section 13. This Wage Order shall take effect on December 5, 1990 up to February 28, 1991, provided the same shall be published at least once in a newspaper of general circulation in the region.

Approved, 18 December 1990.

(SGD) RICARDO S. MARTINEZ, SR.
Chairman

(SGD) VICTOR A. DOMINGO
Vice-Chairman

(SGD) JOSE ROMEO C. ESCANDOR
Vice-Chairman

(SGD) PHILIP B. MONTANCES
Workers Representative

(SGD) MANUEL C. PORE
Workers Representative

(SGD) HERCULANO A. DUHAYLUNGSOD
Employers Representative

(SGD) VIRGINIO A. ASTILLA
Employers Representative

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-02

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-02, 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-02;
- 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 wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skill, 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 activity performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, but

does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products;

- 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.
- o) "Countryside and Barangay Business Enterprises (CBBEs)" refer to newly formed business enterprises pursuant to R.A. 6810 and registered with DTI.

Chapter II - Emergency Cost of Living Allowance

Section 1. 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, regardless of their position, designation or status, and irrespective of the method by which their wages are paid, including learners and apprentices, except:

- a) Workers who are receiving a basic salary of more than P200.00 a day;
- b) Household or domestic helpers, including family drivers and workers in the personal service of another;
- c) Workers in establishments exempted by the Regional Board.

Section 2. Amount of Allowance. - Effective December 05, 1990 up to February 28, 1991, all covered workers and employees in the region shall receive an emergency cost of living allowance of P300.00 a month.

Section 3. Payment of the ECOLA. The allowance required by the Order shall be paid in cash together with the regular wage on customary paydays.

Section 4. Special Feature of the ECOLA.

a) The ECOLA granted to workers in compliance with the Order shall not be considered as part of the regular wage of the covered workers for purposes of computing wage related benefits such as 13th month pay, overtime and premium pay, night differential pay as well as premium contributions to the State Insurance Fund, SSS, Medicare, Pag-ibig, and others;

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

c) In lieu of the allowance, employers may grant wage increases which shall be considered as compliance with the Order provided the amount is not less than that required by the Order.

Section 5. ECOLA for Unworked Days.

a) All covered workers shall be entitled to their daily living allowance during the days that they are paid their basic wage even if unworked;

b) A worker who is on leave of absence but is receiving employee compensation, social security, or maternity leave benefits in lieu of wages, shall be entitled to the allowance provided in the Order in proportion to such compensation or benefits, provided that such workers shall be paid the full monthly allowance if paid the full basic wage;

c) The ECOLA of part-time workers shall not be less than the amount in proportion to the time they actually worked.

Section 6. Application to Private Educational Institutions. The payment of ECOLA granted in the Wage Order shall apply to all qualified workers and employees in the educational institutions without prejudice to the right of the affected private educational institutions to show proof to the competent body that it qualifies for exemption as provided under Section 4 of the Wage Order.

Section 7. Application to Contractors. - In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed ECOLA of covered workers and employees 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, the principal or client fails to pay the prescribed allowance, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 8. Exemptions. The establishment exempted under Wage Order No. RB VIII-01 may likewise be exempted from compliance with the ECOLA prescribed under the Order upon application with and as determined by the Board in accordance with applicable rules and regulations issued by the Commission.

Section 9. Basis of Granting ECOLA. - The ECOLA 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. - All workers paid by results including those who paid are on piece work, takay, pakyaw, or task basis, shall in addition to the applicable minimum wage rates prescribed under the Wage Order No. RB VIII-01 receive the proportional ECOLA of not less than P10.00 for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work less than the normal working hours.

The adjusted minimum wage rates for workers paid by results shall be computed in accordance with the formula prescribed under Section 10 of the Rules Implementing Wage Order No. RB VIII-01.

Section 11. ECOLA of Special Groups of Workers. - Apprentices, learners, and handicapped workers shall be entitled to the ECOLA provided in the Order.

All recognized learnership and apprenticeship agreements entered into before December 05, 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 pay structure within an establishment arising from the application of the ECOLA provided under the Order shall be corrected in accordance with Section 12 of the Rules Implementing Wage Order RB VIII-01.

Section 13. Complaints for Non-Compliance. - Complaints for non-compliance with the allowance provided in the Order shall be filed with the Regional Office of the Department of Labor and Employment 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 agreement 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 ECOLA provided under this Wage Order shall be subject to the penalties specified under Section 12 of R.A. 6727.

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 05, 1990 up to February 28, 1991.

Done in Tacloban City, Republic of the Philippines, this 18th day of December 1990.

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

(SGD) DIR. JOSE ROMEO C. ESCANDOR
Vice-Chairman

(SGD) DIR. VICTOR A. DOMINGO
Vice-Chairman

(SGD) ATTY. PHILIP B. MONTANCES
Workers Representative

MR. MANUEL C. PORE
Workers Representative

(SGD) MR. HERCULANO A. DUHAYLUNGSOD
Employers Representative

(SGD) DR. VIRGINIO A. ASTILLA
Employers Representative

Approved:

(SGD) HON. RUBEN D. TORRES
Secretary of Labor and Employment