

Republic of the Philippines
Department of Labor and Employment
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Regional Board No. VIII
Tacloban City

WAGE ORDER NO. RB VIII - 04
PROVIDING FOR A COST OF LIVING ALLOWANCE

WHEREAS, considering the sustained increase in the prices of commodities and the erosion of the purchasing power of the peso, the labor sector has strongly clamored for an increase in wages;

WHEREAS, the Regional Board in order to ascertain the legitimacy of the labor's demand for increased wages and likewise determine employer's position on the issue, conducted public hearings on wages in Maasin, Southern Leyte on October 25, 1993; Tacloban City on October 27, 1993; and in Catbalogan, Samar on October 29, 1993;

WHEREAS, the results of the public hearings revealed that the socio-economic condition obtaining in the region warrants an increase in wages or in the take home pay of workers;

WHEREAS, Wage Order No. RB VIII - 03, the latest Wage Order issued by the Regional Board, has already been effective for more than one (1) year, making it also imperative on the part of the Regional Board to review the present minimum wage levels in the region pursuant to its mandate under R.A. 6727;

WHEREAS, it is imperative to provide workers and their families with the means to cope up with the increasing cost of living, without hampering the growth and development of business and industry and at the same time prevent the decline of the employment level and likewise maintain the region's competitiveness in terms of attracting new investments;

WHEREAS, the grant of the cost of living allowance is the most appropriate way of providing immediate relief to workers and their families taking into consideration the adverse effects brought about by the increase in prices and the erosion of the purchasing power of the peso;

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 the Eastern Visayas Region (Region VIII) hereby issues this Wage Order.

Section 1. Upon the effectivity of this Wage Order, all employees and workers in the private sector in Region VIII presently receiving the daily minimum wage prescribed under Wage Order No. RB VIII-03 shall be granted a cost of living allowance of P12.00 per day.

Section 2. The COLA granted under this Wage Order shall be effective for a fixed period of six (6) months, from December 10, 1993 to June 9, 1994.

Section 3. For private educational institutions, the COLA shall take effect at the time the school has actually increased tuition fees. Private educational institutions which shall be granted tuition fee increases at the opening of school year 1994-95 shall be required to comply with the provisions of this Wage Order. However, if within the period they did not apply for tuition fee increase, they shall be required to grant COLA as provided in this Wage Order at the start of school year 1995-96.

Section 4. The COLA prescribed 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 5. Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

The following may, however, be exempted from this Wage Order for not more than one (1) year 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. Countryside and barangay business enterprises (CBBE) duly registered pursuant to R.A. 6810, otherwise known as the Kalakalan 20;
- c. Distressed employers suffering from capital impairment as determined by the Regional Board;
- d. Establishments adversely affected by natural calamities such as typhoons, earthquakes, and volcanic eruptions as certified by the Mayor and the DTI and as determined by the Regional Board;
- e. Banks under receivership or liquidation as certified by the Central Bank on account of insolvency as provided in Section 29 of R.A. 265, otherwise known as the Central Bank Act, as amended.

New Business Enterprises set up within the six month period from December 10, 1993 to June 9, 1994 reckoned from the date of original registration with the Office of the Mayor shall also be exempted from 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 complaint for alleged non-compliance with the 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 per cent (1%) per month retroactive to the effectivity of this Wage Order.

Section 6. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed COLA 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, that the principal or client secures an exemption from compliance with the Wage Order, such exemption granted by the Regional Board shall extend to the workers of contractors assigned to the establishment whose application for exemption has been granted by the Regional Board.

Section 7. All workers paid by results including those who are paid on piecework, takay, pakyaw or task basis, shall be entitled to receive the prescribed COLA 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, provided the equivalent amount they receive as compensation for the eight hour period is not more than the minimum wage prescribed under Wage Order No.03.

Section 8. In lieu of COLA 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.

Wage increases granted by employers three (3) months prior to the effectivity of this Wage Order shall be credited as compliance to the COLA granted herein, provided that, where such increases are less than the prescribed COLA, the employer shall pay the difference.

Such increases shall not include anniversary wage increase, merit wage increase and those resulting from regularization or promotion of the employee.

However, initial CBA wage increases made effective within the three month period prior to the effectivity shall be credited as compliance to the COLA prescribed under this Wage Order. Where the initial increase granted under the CBA is less than the COLA provided herein, the employer shall pay the difference.

Section 9. Where the application of the prescribed COLA under this Wage Order results in distortion of the pay structure within an establishment, such distortion shall be corrected using the procedure specified under Article 124 of the Labor Code of the Philippines, as amended.

Section 10. 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 11. Any employer who refuses or fails to pay the COLA prescribed 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 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 13. The Regional Board shall review the existing wage levels in the region before the end of the Six (6) months period within which this Wage Order shall be operative to determine whether the regional economic situation in the region justifies the grant of wage increases to the workers.

Section 14. This Wage Order shall take effect after the lapse of Fifteen (15) days from its date of publication in at least one (1) newspaper of general circulation in the region.

Approved this 12th day of November 1993 at Tacloban City.

(SGD) MR. MANUEL C. PORE
Workers Representative

* MR. EMMANUEL CAÑETE
Workers Representative
** Has been terminated by ALU-TUCP and has not reported to any Board deliberation since his assumption to office.*

(SGD) DR VIRGINIO A. ASTILLA
Employer Representative

(SGD) MR. HERCULANO A. DUHAYLUNGSOD
Employers Representative

(SGD) DIR. BUENAVENTURA GO-SOCO JR.
Vice-Chairman

(SGD) DIR. CYNTHIA R. NIERRAS
Vice-Chairman

(SGD) DIR. JALILLO O. DELA TORRE
Chairman

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
Regional Tripartite Wages and Productivity Board
Regional Board No. VIII
Tacloban City

RULES IMPLEMENTING WAGE ORDER NO. RB VIII-04

Pursuant to the authority granted under Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 10 of Wage Order No. RB VIII-04, the Regional Tripartite Wages and Productivity Board of the Eastern Visayas Region (Region VIII) hereby adopts and promulgates the following rules implementing Wage Order No. RB VIII-04, 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. RB VIII-04;
- 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, Biliran, Northern Samar, Samar, Eastern Samar and the cities of Tacloban, Ormoc, and Calbayog;
- f) "Statutory Minimum Wage" is the lowest wage rate fixed by law that an employer can pay his workers;
- g) "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;
- h) "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 skills, length of service, or other logical bases of differentiation;
- i) "Collective Bargaining Agreement" refers to the negotiated contract between 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;
- j) "Initial CBA Wage Increase" refers to the negotiated wage adjustment between labor and management which takes effect on the first year of the life of the CBA.
- k) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;

- l) "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;
- m) "Distressed Establishment" refer to establishments with capital impairment as may be determined by the Board;
- n) "Countryside and Barangay Business Enterprises (CBBE)" refer to newly formed business enterprises pursuant to R.A. 6810 and registered with the LGU concerned;
- o) "LGU" means the Local Government Unit;
- p) "New Business Enterprises" refer to establishments, including non-profit institutions, newly registered with the appropriate government agency such as the SEC, DTI, CDA and Mayor's Office within the period December 10, 1993 to June 9, 1994, pursuant to Section 5 of Wage Order No. RB VIII-04.

Chapter II. Cost of Living Allowance

Section 1. Coverage. Cost of Living Allowance prescribed under the Order shall apply to all employees and workers in the private sector in Region VIII presently receiving the applicable daily minimum wage prescribed under Wage Order No. RB VIII-03, 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 whose basic salary per day exceeds the applicable daily minimum wage prescribed under Wage Order No. RB VIII-03;
- b) Household or domestic helpers, including family drivers and workers in the personal service of another;
- c) Workers and employees in retail/service establishments regularly employing not more than ten (10) workers, when exempted from compliance with order, for a period fixed by the Board in accordance with Section 14, Chapter II of this Rules;
- d) Workers and employees of distressed establishments suffering from capital impairment as determined by the Regional Board, when exempted from compliance with the Order for a period fixed by the Board in accordance with Section 14, Chapter II of this Rules;
- e) Workers and employees of establishments adversely affected by natural calamities such as typhoons, earthquakes and volcanic eruptions as certified by the Mayor and the DTI and as determined by the Regional Board, when exempted from compliance with the order, for a period fixed by the Board in accordance with Section 14, Chapter II of this Rules.
- f) Workers and employees of countryside and barangay business enterprises (CBBEs) duly registered pursuant to R.A. 6810, otherwise known as the Kalakalan 20, when exempted from compliance with the Order, for a period fixed by the Board in accordance with Section 14, Chapter II of this Rules;

- g) Workers and employees of banks under receivership or liquidation as certified by the Central Bank on account of insolvency as provided in Section 29 of R.A. 265, otherwise known as the Central Bank Act, as amended;
- h) Workers and employees of New Business Enterprises set-up within the six month period from December 10, 1993 to June 9, 1994 reckoned from the date of original registration with the Office of the Mayor, SEC, DTI, CDA, when exempted from compliance with the order, for a period fixed by the Board in accordance with Section 14, Chapter 11 of this Rules.

Section 2. Amount of Allowance. Effective December 10, 1993 up to June 9, 1994, all covered workers and employees in the region shall receive a cost of living allowance of Twelve Pesos (P12.00) per day.

Section 3. Payment of COLA. 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 COLA. The COLA 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 and night differential pay, as well as premium contribution to the State Insurance Fund, SSS, medicare, Pag-ibig, and others.

Section 5. Creditable Wage Increase.

- a) 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. Provided further that the wage increase granted by employers three (3) months prior to the effectivity of the Order shall be credited as compliance with the COLA granted thereof, provided that, where such increases are less than the prescribed COLA, the employer shall pay the difference.
- b) Initial CBA wage increase made effective within the three-month period prior to the effectivity of the Order shall be credited as compliance thereof. Where the initial increase granted under the CBA is less than the COLA provided in the Order, the employer shall pay the difference.
- c) Anniversary wage increases provided in the CBA, merit wage increase and those resulting from regularization or promotion of employees shall not be credited as compliance to the COLA prescribed in the Order.
- d) With respect to private educational institutions, the share of the covered workers and employees in the increase in tuition fees for the second semester of school year 1993-94 shall be credited as compliance with the COLA prescribed in the Order. Where their share is less than the COLA provided herein, the employer shall pay the difference.

Section 6. COLA for Unworked Days.

- a) All covered workers shall be entitled to the COLA prescribed in the Order during the days that they are paid their basic wage even if no actual service is rendered.

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 COLA of part-time workers and those who incur undertime shall not be less than the amount in proportion to the time they actually worked.

Section 7. Basis of Granting COLA. The COLA prescribed under the Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

Section 8. Application to Private Educational Institutions. The payment of COLA granted in the Order shall apply to all qualified workers and employees of educational institutions without prejudice to the right of the affected private educational institution to show proof to the Board that it qualifies for exemption as provided under Section 5 of the Order.

The COLA shall take effect at the time the school has actually increased tuition fees. Private educational institutions which were granted tuition fee increase at the opening of the second semester of school year 1993-94 shall be required to comply with the provisions of the Order, including those which shall be granted tuition fee increase at the opening of school year 1994-95. However, if within the period they did not apply for tuition fee increase, they shall be required to grant COLA as provided in the Order at the start of School Year 1995-96.

Section 9. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed COLA 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, that the principal or client secures an exemption from compliance with the Order, such exemption granted by the Board shall extend to the workers of contractors assigned to the establishment whose application for exemption has been granted by the Board.

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 be entitled to receive the prescribed COLA 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, provided the equivalent amount they receive as compensation for the eight-hour period is not more than minimum wage prescribed under Wage Order No. RB VIII-03.

Section 11. COLA of Special Groups of Workers.

Apprentices, learners, and handicapped workers shall be entitled to the COLA provided in the Order.

All recognized learnership and apprenticeship agreements entered into before December 10, 1993 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the COLA prescribed under the Order.

Section 12. Mobile and Branch Workers. The minimum wage rates/COLA of workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head of office of the employer.

The minimum wage rates/COLA of workers working in branches or agencies of establishments in or outside the region shall be those applicable in the place where they are stationed.

Section 13. Transfer of Personnel. The transfer of personnel from one province/region to another shall not be a valid ground for the reduction of wage rate/COLA being enjoyed by the worker prior to such transfer.

Section 14. Exemptions. Automatically exempted from the provisions of the Order are household or domestic helpers and persons in the personal service of another, including family drivers.

The following establishments may, however be exempted from compliance with the COLA prescribed under the Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations:

- a) Retail/Service establishment regularly employing not more than ten (10) workers;
- b) Countryside and Barangay Business Enterprises (CBBEs) duly registered pursuant to R.A. 6810, otherwise known as the Kalakalan 20;
- c) Distressed employers suffering from capital impairment as determined by the Regional Board;
- d) Establishments adversely affected by natural calamities such as typhoons, earthquakes, and volcanic eruptions as certified by the Mayor and the DTI and as determined by the Regional Board;
- e) Banks under receivership or liquidation as certified by the Central Bank on account of insolvency as provided in Section 29 of R.A. 265, otherwise known as the Central Bank Act, as amended.

New Business Enterprises set up within the six-month period from from December 10, 1993 to June 9, 1994 reckoned from the date of original registration with the Office of the Mayor, DTI, and CDA shall also be exempted from the Order.

Applications for exemption from compliance with the COLA prescribed under the Order shall be filed with the Regional Board not later than sixty (60) days from the date of publication of the approved implementing rules and regulations except in the case of New Business Enterprises who may file their application for exemption anytime within the six-month period from December 10, 1993 to June 9, 1994.

The application in two (2) typewritten copies, may be filed by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. It shall be under oath and accompanied by complete supporting documents as required under Section 2 of the Revised NWPC Guidelines on Exemption from Compliance with the Prescribed Wage/COLA Increases Granted by the Regional Tripartite Wages and Productivity Boards and by supplementary guidelines that may be issued by the Regional Board.

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 the 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 the Order plus interest of one (1%) percent per month retroactive to the effectivity of the Order.

Section 15. Wage Distortion. Any distortion in the pay structure within an establishment arising from the application of the COLA provided under the Order shall be corrected according to the following procedure:

a) In organized establishments with an existing collective bargaining agreement, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortion 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 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 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 ten (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 twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

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

Any issue involving distortion in the pay structure shall not be a ground for a strike/lockout.

Section 16. Complaints for Non-compliance. Complaints for non-compliance with the COLA 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 17. Non-Diminution of Benefits. Nothing in the Order and this Rules shall be construed as authorizing the reduction of 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 employer or employer's practices or policies.

Section 18. Penal Provision. Any person, corporation, trust, firm, partnership, association, or entity which refuses or fails to pay the prescribed COLA 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 or 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 19. Prohibition Against Injunction. No preliminary or permanent injunction or temporary retraining order may be issued by any court, tribunal or other entity against any proceeding before the Board.

Section 20. Effect on other Issuances. The provisions of existing laws and decrees on wages and their implementing rules and regulations, particularly Wage Order No. RB VIII-04, and other issuances not otherwise repealed, modified or inconsistent with the Order and this Rules shall continue to have full force and effect.

Section 21. Review of Existing Wage Levels. The Regional Board shall review the existing wage levels in the region two (2) months before the end of the six (6) month period within which the Order shall be operative to determine whether the regional economic situation justifies the grant of wage increase to the workers.

Section 13. Effectivity. This rules shall take effect on December 10, 1993.

Done in Tacloban City, Republic of the Philippines, this 3rd day of December, 1993.

(SGD).MANUEL C. PORE
Workers Representative

* MR.EMMANUEL CANETE.
Workers Representative
* *Has been terminated by ALU-TUCP and has not reported to any Board deliberations since his assumption to office.*

(SGD) VIRGINIO A. ASTILLA.
Employers Representative

(SGD) HERCULANO A. DUHAYLUNGSOD
Employers Representative

(SGD)DIR. BUENAVENTURA C. GO-SOCO, JR. (SGD) CYNTHIA R. NIERRAS
Vice-Chairman Vice-Chairman

(SGD) DIR. JALILO O. DE LA TORRE
Chairman

Approved this 14th day of February, 1994, subject to the following notations:

(SGD) MA. NIEVES R. CONFESOR
Secretary

NOTATIONS TO RULES IMPLEMENTING WAGE ORDER NO. RBVIII-04

1. *The definition of "Distressed Establishment" shall be revised to read as follows:*

"Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3(3) of the NWPC Revised Guidelines on Exemption.
2. *The registration requirement for NBEs to determine their eligibility for exemption should conform with the Wage Order which specifies registration with the Mayor's Office only.*
3. *Delete the phrase "as well as premium contribution to the State Insurance Fund, SSS, Medicare, Pag-Ibig, and others" as this is contrary to Section 8, item (f) and Section 18, item (a) of the SSS Law (RA 1161), as amended.*