

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-A

EXTENDING THE PERIOD OF THE GRANT OF COST OF LIVING
ALLOWANCE BY AMENDING CERTAIN PROVISIONS OF WAGE
ORDER NO. RB VIII-04

WHEREAS, Wage Order No. RB VIII-04 which provides for a cost of living allowance of twelve pesos (P12.00) per day to minimum wage earners in the region will soon expire on June 9, 1994;

WHEREAS, pursuant to Section 13 of Wage Order No. RB VIII-04, the Regional Board conducted a review of the existing wage levels in the region;

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

WHEREAS, it is imperative to provide workers and their families with the means to cope 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;

WHEREAS, in consideration of the above, the Regional Board deemed it proper to continue the grant of the cost of living allowance provided under Wage Order No. RB VIII-04 until December 31, 1994 and to expand the coverage to enable more workers in the private sector to avail of the temporary benefits.

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 amending certain provisions of Wage Order No. RB VIII-04:

Section 1. Section 1,2,4, the 2nd and 3rd paragraphs of Section 5 and the 4th paragraph of Section 8 of Wage Order No. RB VIII-04 are hereby amended to read as follows:

Section 1. Upon the effectivity of the Wage Order, the employees and workers in the private sector in Region VIII presently receiving a daily wage of TWO HUNDRED PESOS (P200.00) and below shall be granted a Cost of Living Allowance of TWELVE PESOS (P12.00) per day.

Section 2. The COLA granted under the Wage Order shall be effective from June 10 to December 31, 1994.

Section 4. The COLA prescribed under the 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 and night shift differential pay.

Section 5. (2nd paragraph)

The following may, however, be exempted from this Wage Order for not more than six (6) months 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 (CBBEs) duly registered pursuant to RA 6810, otherwise known as the Kalakalan 20 Law;

c. Distressed employers suffering from capital impairment in accordance with Section 3 (3) of the NWPC Revised Guidelines on Exemption;

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 RA 265, otherwise known as the Central Bank Act, as amended.

(3rd Paragraph)

New Business Enterprises set up within the period from June 10 to December 31, 1994 reckoned from the date of original registration with the Office of the Mayor shall also be exempted from the Wage Order.

Section 3. (4th paragraph)

Initial CBA wage increases made effective within the three month period prior to the effectivity of the Order 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. However, in establishments with existing CBAs that provide otherwise, this Wage Order shall have suppletory effect.

Section 2. 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 7th day of June, 1994 at Tacloban City.

(SGD) MR. MANUEL C. PORE
Workers Representative

(SGD) MR. RAMON N. PEDROZA, JR.
Workers Representative

(SGD) DR. VIRGINIO A. ASTILLA
Employers Representative

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

(SGD) DIR. MARTIN ENAGE DAIZ, CESO III
Chairman

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RULES IMPLEMENTING WAGE ORDER NO. RB VIII-04-A

Pursuant to the authority granted under Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing, the Regional Tripartite Wage and Productivity Board of the Eastern Visayas Region (Region VIII) hereby adopts and promulgates the following rules implementing Wage Order No. RB VIII-04-A, 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-A;
- b) "Board" means the Regional Tripartite Wages and Productivity Board of Region VIII;
- c) "Region VIII" covers the Provinces of Leyte, Southern Leyte, Biliran, Northern Samar, Samar, Eastern Samar and the Cities of Tacloban, Ormoc and Calbayog;
- d) "Collective Bargaining Agreement" 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;
- e) "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;
- f) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- g) "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;
- h) "Distressed Establishment" refers to an establishment which meets with the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines on Exemption;
- i) "Countryside and Barangay Business Enterprises (CBBEs)" refers to newly formed business enterprises pursuant to R.A. 6810 and registered with the LGU concerned;
- j) "LGU" means the Local Government Unit;
- k) "New Business Enterprises" refers to establishment, including non-profit institutions, newly registered with the appropriate government agency such as the SEC, DTI, CDA and Mayor's Office from June 10 to December 31, 1994.

CHAPTER II - Cost of Living Allowance

Section 1. Coverage. The Cost of Living Allowance prescribed under the Order shall apply to all employees and workers in the private sector in Region VIII presently receiving a daily wage of TWO HUNDRED PESOS (P200.00) and below, 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 two hundred pesos (P200.00);
- 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 the Order, for a period fixed by the Board in accordance with Section 7, Chapter II of this Rules;
- d) Workers and employees of distressed establishments suffering from capital impairment in accordance with Section 3(3) of the NWPC Revised Guidelines on Exemption, when exempted from compliance with the Order for a period fixed by the Board in accordance with Section 7, Chapter II of the 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 7, Chapter II of the 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 7, 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 from June 10 to December 31, 1994 reckoned from the date of original registration with the Office of the Mayor when exempted from compliance with the Order, for a period fixed by the Board in accordance with Section 7, Chapter II of this Rules.

Section 2. Amount of Allowance. Effective June 10 to December 31, 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. 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 shift differential pay.

Section 4. Creditable Wage Increase.

a) In lieu of the allowance, employers may grant wage increase 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 increases 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. However, in establishments with existing CBAs that provide otherwise, the Order shall have suppletory effect.

c) 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 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 school year 1994-1995 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 5. Application to Private Education Institutions. The payment of COLA granted in the Order shall apply to all qualified 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 Wage Order No. RB VIII-04, as amended.

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 school year 1994-1995 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 1995-1996. 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 1996-1997.

Section 6. 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 June 10, 1994 shall be considered automatically modified insofar as their wage clauses are concerned to reflect the COLA prescribed under the Order.

Section 7. 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 law;
- c) Distressed employers suffering from capital impairment in accordance with Section 3 (3) of the NWPC Revised Guidelines on Exemption;
- 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 from June 10, 1994 to December 31, 1994 reckoned from the date of original registration with the Office of the Mayor.

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 whose owners/managers/duly authorized representatives may file their application for exemption anytime from June 10 to December 31, 1994.

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 8. 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 9. 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 10. 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 11. Effect on other Issuances.

No 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 12. Review of Existing Wage Levels. The Regional Board shall review the existing wage levels in the region two (2) months before the expiration of the Order 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 June 10, 1994.

Done in the City of Tacloban, Philippines, this 23rd day of June 1994.

MR. MANUEL C. PORE
Workers Representative

(SGD) MR. RAMON N. PEDROZA, JR.
Workers Representative

(SGD) DR. VIRGINIO A. ASTILLA
Employers Representative

MR. HERCULANO A. DUHAYLUNGSOD
Employers Representative

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

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

(SGD) DIR. MARTIN ENAGE DAIZ, CESO III
Chairman

Approved this 26th day of September, 1994.

(SGD.) BIENVENIDO B. LAGUESMA
Acting Secretary

