

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

**AMENDED WAGE ORDER NO. RB VIII-06
PRESCRIBING FOR NEW MINIMUM WAGE RATES
BY PROVIDING FOR A STAGGERED WAGE INCREASE OF P8.00 PER DAY AND
PARTIALLY INTEGRATING THE P12.00 COLA UNDER WAGE ORDER NO. RB VIII-04-A.**

WHEREAS, on August 14, September 13, October 17 and December 14, 1996, the Energy Regulatory Board increased the prices of oil and other petroleum products by an average of P1.26 per liter triggering increases in the prices of basic goods and services;

WHEREAS, on November 20 and December 6, 1996, the Associated Labor Unions – Trade Union Congress of the Philippines (ALU-TUCP) and the Labor Empowerment Alliance for Development (LEAD) filed their respective petition for an across-the-board fifty eight pesos (P58.00) per day wage increase plus an integration of the twelve pesos (P12.00) per day cost of living allowance to the basis wage;

WHEREAS, in response to the petitions for wage increase, the Tacloban Filipino-Chinese Chamber of Commerce, Inc. (TFCCI) and Leyte Chinese Chamber of Commerce and Industry (LCCCI), on December 13, 1996, filed their opposition to the wage increase proposing that the present wage structure under Wage Order No. RB VIII-05 be maintained until such time that the general business and economic condition are favorable for the granting of additional benefits to the workers

WHEREAS, the Regional Tripartite Wages and Productivity Board of the Eastern Visayas Region (Region VIII), pursuant to its minimum wage fixing function, conducted a series of public hearings on wages with labor and management and other special sectors, to wit: Maasin, Southern Leyte and Catarman, Northern Samar on December 9, 1996; Ormoc City and Catbalogan, Samar on December 10, 1996; Borongan, Eastern Samar on December 11, 1996; Tacloban City on December 12, 1996 and January 15, 1997; and Naval, Biliran on December 14, 1996.

WHEREAS, the lowly paid workers and their families are the ones most adversely affected by the sustained increase in prices and the erosion of the purchasing power of the peso;

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 of business and industry;

WHEREAS, the Regional Board recognizes the importance of improved productivity as a viable alternative to higher wages;

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. Coverage. The wage increase prescribed under this Order shall apply to all employees and workers in the private sector in Region VIII presently receiving the minimum wage provided under Wage Order No. RB VIII-05.

SECTION 2. Amount and Manner of Increase. Upon the effectivity of this Order, the minimum wage provided under Wage Order No. RB VIII-05 shall be increased by eight pesos (P8.00) per day to be given on a staggered basis as follows:

- a. P4.00 daily wage increase upon the effectivity of this Order and
- b. P4.00 additional daily wage increase effective June 1, 1997.

SECTION 3. COLA Integration. The cost of living allowance of twelve pesos (P12.00) per day provided under Wage Order No. RB VIII-04-A shall be integrated to the basic pay of workers receiving a daily wage of One Hundred Twenty Two Pesos (P122.00) and below under Wage Order No. RB VIII-05.

Workers receiving a daily wage above One Hundred Twenty Two Pesos (P122.00) up to Two Hundred Pesos (P200.00) shall continue to receive the P12.00 COLA per day under Wage Order No. RB VIII-04-A.

SECTION 4. Basis of Minimum Wage Rates. The minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours of work a day.

SECTION 5. Application to Private Educational Institutions. In the case of private educational institutions, the wage increase prescribed under this Order shall take effect at the time they have actually increase tuition fees. However, covered workers and employees shall be granted the wage increase prescribed hereof at the opening of School Year 1997-1998 regardless of whether or not an increase in tuition fees has been effected by private educational institutions.

SECTION 6. Exemptions.

A. Coverage

1. Automatic Exemption. Automatically exempted from the provisions of this Order are households or domestic helpers and persons in the personal service of another including family drivers.
2. Non-Automatic Exemption. The following may, however, be exempted from this 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 suffering from capital impairment 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 SEC, DTL, 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 corporation/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 proprietorships/partnerships
When the net accumulated losses for 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 period of exemption shall be based on the registration with the appropriate government agencies such as SEC, DTI, CDA and Mayor's Office provided that it is established within two (2) years from the date of effectivity of this Order.

- A. Procedure. An application, in two (2) typewritten copies may be filed with the Regional Board by the owner/manager of duly authorized representative of an establishment, in person or by registered mail. Application shall be filed not later than sixty (60) days from the date of publication of the approved Rules Implementing this Order.
- B. 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.
- C. Effect of Application for Exemption Filed on Complaint for Alleged Non-Compliance. Whenever an application for exemption has been filed with the Regional Board, action by the Regional Office of the Department of Labor and Employment on any complaint for alleged non-compliance with this Order shall be deferred pending resolution of the application for exemption by the Regional Board.
- D. 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 interest of one percent (1%) per month retroactive to the effectivity of this Order or the date of registration with the appropriate government agencies such as SEC, DTI, CDA and Mayor's Office in the case of New Business Enterprises.
- E. 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 DOLE Regional Office concerned.

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

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

Section 8. 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 wage increase for the normal working hours which shall not exceed eight (8) hours of work a day or a portion thereof for working less than the normal working hours.

Section 9. Wages of Special Groups of Workers. Wages of apprentices, learners and handicapped workers shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates.

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

Section 10. Mobile and Branch Workers. The 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 in or outside the region shall be those applicable in the places where they are stationed.

Section 11. Transfer of Personnel. The transfer of personnel from one province/region to another shall not be valid ground for the reduction of the wage rate being enjoyed by the worker prior to the transfer.

Section 12. 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 employer.

Section 13. Creditable Benefits Derived from Productivity Gain-sharing Scheme. The benefits derived from productivity gain-sharing scheme consistently granted to the workers may be considered compliance to the wage increase prescribed under this Order upon application with the Board and as determined by the DOLE Regional Office. Where the monetary value of the benefits is less than the prescribed wage increase, the employer shall pay the difference. In the event, however, that the granting of benefits is suspended, for whatever reason, the employer shall pay the wage increase prescribed under this Order during the period of suspension. If the

productivity gain-sharing scheme is discontinued, the employer shall also pay the wage increase prescribed hereof retroactive to the date when the discontinuance of the scheme took effect.

Section 14. Non-Creditable Wage Increase. Anniversary wage increases provided in the Collective Bargaining Agreement, merit wage increases and those resulting from the regularization of promotion of employees shall not be credited as compliance to the wage increase prescribed under this Order unless otherwise provided in the CBA itself.

Section 15. Wage Distortion. Where the application of the wage increase prescribed under this Order results in distortion of the wage structure within and establishment, such distortion shall be corrected using the procedure specified under Article 124 of the Labor Code of Philippines, as amended.

Section 16. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase prescribed under this Order shall be filed with the Regional Office of Department of Labor and Employment and shall be subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 17. 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 Regional Board.

Section 18. Non-Diminution of Benefits. Nothing in this Order shall be construed as authorizing the reduction of any existing wage rates, allowances or other benefits under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and employers.

Section 19. Penal Provision. Any person, corporation, firm, partnership, association or entity which refuses or fails to pay the wage increase prescribed under this Order shall be punished in accordance with R. A. 8188. Provided, that any person convicted under this Order shall not be entitled to the benefits provided for under the Probation Law.

Section 20. Effect 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 this Order shall continue to have full force and effect.

Section 21. Separability Clause. If any provision or part of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 22. Implementing Rules. The Regional Board shall prepare the necessary rules and regulations to implement this Wage Order not later than ten (10) days from the date of its issuance, subject to the approval of the Secretary of Labor and Employment.

Section 23. Effectivity. This Order shall take effect on February 11, 1997.

Approved this 19th day of January, 1997 at Tacloban City, Philippines.

(SGD.) DIR. MELENCIO Q. BALANAG

Chairman

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

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

Dissented

As dissented on the wage order and integration

(SGD) MR. MANUEL C. PORE

Workers' Representative

(SGD) MR. HERCULANO A. DUHAYLUNGSOD

Employers' Representative

Dissented

I dissent on the amendment in Sec. 3, 2nd paragraph

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

Workers' Representative

(SGD) DR. VIRGINIO A. ASTILLA

Employers' Representative

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

RULES IMPLEMENTING WAGE ORDER NO. RB VIII-06

Pursuant to the authority granted under Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 22 of Wage Order No. RB VIII-06, the Regional Tripartite Wages and Productivity Board of the Eastern Visayas Region (Region VIII) hereby adopts promulgates the following rules implementing Wage Order No. RB VIII-05, 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-06;
- b. “Regional Board” means the Regional Tripartite Wages and Productivity Board of Region VIII;
- c. “NWPC” means the National Wages and Productivity Commission;
- d. “DOLE” 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. “DTI” means the Department of Trade and Industry;
- g. “CDA” means the Cooperative Development Authority;
- h. “SEC” means the Securities and Exchange Commission;
- i. “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 minimum wage rates;
- j. “Statutory Minimum Wage” is the lowest wage rate fixed by law that an employer can pay his workers;
- k. “Wage Distortion” means a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative difference in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinction embodied in such wage structure based on skills, length of service, or other logical bases of differentiation;
- l. “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;

- m. "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 products;
- n. "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-Agricultural Enterprise;"
- o. "Retail Enterprise" is one principally engaged in the sale of goods to end-users for personal or household use;
- p. "Service Establishment" is one principally engaged in the sales of service to individuals for their own or household use and is generally recognized as such;
- q. "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines on Exemption;
- r. "New Business Enterprise" refer to an establishments, including non-profit institutions established within two (2) years from effectivity of the Wage Order based on the latest registration with the appropriate government agencies such as SEC, DTI;
- s. "COLA" refers to the Cost of Living Allowance of P12.00 per day granted to workers and employees whose basic daily wage does not exceed P200.00 as provided under Wage Order No. RB VIII-05;
- 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 P1,500,000.00, regardless of previous registration with the defunct NACIDA;
- u. "Productivity" means the ratio between output and input where the goods and services produced by an establishment are effectively utilized; and,
- v. "Productivity Gainsharing Scheme" refers to a process by which benefits are granted and distributed among workers after productivity levels have increased through the application and practice of productivity improvement techniques; such as 5-S, suggestion scheme, labor management consultation, and quality circle.

Chapter II – Wage Increase

Section 1. Coverage. The wage increase prescribed under the Order shall apply to all workers and employees in the private sector in Region VIII receiving the applicable minimum wage rate or its monthly equivalent under Wage Order No. RB VIII-05, 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;
- b. 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 Regional Board in accordance with Section 14, Chapter II of this Rules;
- c. Workers and employees of distressed establishments suffering from capital impairment in accordance with Section 3 (A) of the NWPC Guidelines No. 01, Series of 1996, when exempted from compliance with the Order for a period fixed by the Regional Board in accordance with Section 14, Chapter II of this Rules;
- d. Workers and employees of New Business Enterprises established within Two (2) years from the date of effectivity of the Order based on the latest registration with the appropriate government agencies such as SEC, DTI, CDA, and Mayor's Office when exempted from compliance with the Order for a period fixed by the Regional Board in accordance with Section 14, Chapter II of this Rules;

Section 2. Amount and Manner of Minimum Wage Increase. The daily minimum wage rates of covered workers and employees in Region VIII as provided under Wage Order No. RB VIII-05 shall be increased by Eight Pesos (P8.00) per day to be given on a staggered basis.

Covered workers and employees shall receive a minimum wage increase of Four Pesos (P4.00) per day effective February 11, 1997 and an additional Four Pesos (P4.00) per day increase on June 1, 1997.

Section 3. COLA Integration. The cost of living allowance of Twelve Pesos (P12.00) per day provided under Wage Order No. RB VIII-04-A shall be integrated to the basic pay of workers receiving a daily wage of One Hundred Twenty Two Pesos (P122.00) and below under Wage Order No. RB VIII-05.

For those workers receiving a daily wage above One Hundred Twenty Pesos (P122.00) shall continue to receive the P12.00 COLA per day under Wage Order No. RB VIII-04-A.

Section 4. Daily Minimum Wage Rates.

- a. The daily minimum wage rates of covered workers and employees in the private sector in Region VIII prescribed under the Order are herewith attached as Annex A of this Rules.
- b. Without prejudice to existing company practices, agreement or policies, the suggested formula herein attached as Annex B of this rules may be used as guides in determining the equivalent monthly minimum wage rates.

Section 5. Basis of Minimum Wage Rates. The minimum wage rates prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours of work per day.

Section 6. Non-Creditable Wage Increases. 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 wage increase prescribed under the Order unless otherwise provided in the Collective Bargaining Agreement itself.

Section 7. Creditable Benefits Derived from Productivity Gainsharing Scheme. The benefits derived from productivity gainsharing scheme consistently granted to the workers may be considered as compliance to the wage increase prescribed under the Order.

A. Criteria for Crediting.

The following criteria shall be used in the crediting of benefits derived from productivity gainsharing schemes:

1. The applicant establishment must have a quantifiable productivity gainsharing program certified by the Labor Management Committee;
2. The productivity gainsharing program must provide for a monthly distribution of economic benefits to the workers;
3. The applicant establishment must have consistently distributed the productivity incentive bonus at least three (3) months prior to the effectivity of the Wage Order;
4. If the productivity incentive bonus is distributed in kind, it must be quantifiable in terms of money value and should be valued by the DOLE Regional Director.

B. Procedure of Crediting.

1. Filing of Application.
 - a. An application for crediting, under oath, in two (2) typewritten copies together with the required supporting documents 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 sixty (60) days from the date of publication of this Rules.

For applications for crediting filed through registered mail, the date of mailing shall be considered as the date of filing.

- b. Documents Required. The following supporting documents shall be submitted together with the application for crediting:
 1. Affidavit from employer regarding the following:
 - a. Principal economic activity, and
 - b. Number of employees;
 2. Business Permit for the current year from the Office of the City/Municipal Mayor, SEC, DTI or CDA registration;

3. Copy of the Productivity Gainsharing Scheme duly certified by the labor and management representatives of the establishment; and,
4. Proof of payment of benefits derived from productivity gainsharing benefits granted to workers for the last three (3) consecutive months immediately preceding the effectivity of the wage increase provided under the Order.

c. 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 crediting stating the reasons why the same should not be approved furnishing the applicant a copy thereof. The 15 day period shall run only upon receipt of complete supporting documents. The opposition shall be in two copies, under oath and accompanied by the pertinent documents, if any.

d. Action on Application for Crediting.

Upon receipt of an application for crediting with complete documents, the Regional Board shall notify the DOLE Regional Director of the pendency of the application for crediting thereafter shall immediately proceed to examine and evaluate the productivity gainsharing program of the applicant establishment. In order to determine if it conforms with the criteria and procedural requirements prescribed by the Board. If the documents are complete, the Regional Board shall decide on the application within 45 days from the date of filing.

e. Extent and Period of Crediting

Where the monetary value of the benefits derived from the productivity gainsharing scheme as determined by the DOLE Regional Office is less than the prescribed wage increase under the Order, the employer shall pay the difference.

In the event, however that the granting of benefits is suspended, for whatever reason, the employer shall pay the wage increase prescribed under the Order during the period of suspension.

If the productivity gainsharing scheme is discontinued, the employer shall also pay the wage increase prescribed thereof retroactive to the date when the discontinuance of the scheme took effect.

Section 8. Application to Private Educational Institutions. Private Educational Institutions shall be required to comply with the wage increase prescribed under the Order at the time they have actually increased tuition fees. However, covered workers and employees shall be granted the wage increase prescribed thereof at the opening of School Year 1997-1998 regardless of whether or not an increase in tuition fees has been effected by private educational institutions.

Section 9. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase 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 fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with the principal.

Section 10. Workers Paid by Results. a) All workers paid by results including those who are paid on piece work, takay, pakyaw, or task basis, shall receive not less than the applicable minimum wage rates prescribed under the Order for the normal working hours which shall not exceed eight (8) hours of work a day, or a proportion thereof for work of less than the normal working hours.

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

1. $\frac{\text{Amount of increase in AMW}}{\text{Previous AMW}} \times 100 = \% \text{ increase}$
2. Existing rate/pc. X % increase = Increase in rate/pc.
3. Existing rate /pc. + increase in rate/pc. = adjusted rate/pc.
*AMW is the applicable minimum wage rate.

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

Section 11. Wages of Special Groups of Workers. Wages of apprentices, learners, and handicapped workers shall in no case be less than seventy five percent (75%) of the applicable minimum wage rates. All recognized learnership and apprenticeship agreements entered into before February 11, 1997 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increase prescribed under the Order.

Section 12. Mobile and Branch Workers. The 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 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 the wage rate being enjoyed by the worker prior to the transfer.

Section 14. Exemptions.

A. Coverage.

1. Automatic Exemption. Automatically exempted from the provisions of this Order are households or domestic helpers and persons in the personal service of another including family drivers.
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 suffering from capital impairment in accordance with Section 3 (A) of NWPC Guidelines No. 01, Series of 1996;
- c. New Business Enterprises set-up within two (2) years from the date of effectivity of the 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 NWPC Guidelines No. 01, 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 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 organization

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 period of exemption shall be based on the latest registration with the appropriate government agencies such as SEC, DTI, CDA and Mayor's Office provided that it is established within two (2) years from the date of effectivity of the Order.

C. 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 registered mail. Application shall be filed not later than sixty (60) days from the date of publication of the Rules Implementing the Order duly approved by the Secretary of Labor and Employment.

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.

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. 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.

- E. Effect of Filing an Application for Exemption on Complaints for Non-Compliance. Whenever an application for exemption has been filed with the Regional Board, action by the DOLE Regional Office on any complaint for alleged non-compliance with the 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 is not granted, covered workers and employees shall receive the appropriate compensation due them as provided in the Order plus interest of one percent (1%) per month retroactive to the effectivity of the Order.

In the case of New Business Enterprises, the granting of the wage increase by reason of a disapproved application for exemption shall be based on the latest registration with the appropriate government agencies such as the SEC, DTI, CDA and Mayor's Office.

- 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.

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

- H. 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 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.

- I. Grounds for Appeal. An appeal may be filed on the following grounds:
1. Non-conformity with the prescribed guidelines and/or procedures on exemption;
 2. Prima facie evidence of grave abuse of discretion on the part of the Regional Board; or,
 3. Questions of law.
- J. 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 15. Wage Distortion. Any distortion in the wage structure within an establishment arising from the application of the wage increase provided under the Order shall be corrected according to the following procedure:

- a. In unionized establishments with an existing CBA, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved through the grievance procedure under the CBA and, if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to the voluntary arbitration.
- b. In cases where there are no CBAs 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 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 wage distortion shall not in any way delay the applicability of any wage increase prescribed under the Order.

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

Section 16. Freedom to Bargain. The 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 17. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase prescribed under 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 18. 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 Regional Board.

Section 19. Non-Diminution of Benefits. Nothing in the Order shall be construed as authorizing the reduction of any existing wage rates, allowances, or other benefits under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and employers.

Section 20. Penal Provision. Any person, corporation, firm, partnership, association or entity which refuses or fails to pay the wage increase prescribed under the Order shall be punished in accordance with Republic Act 8188. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

Section 21. Effect 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 shall continue to have full force and effect.

Section 22. Separability Clause. If any provision or part of the Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 23. Effectivity. This Rules shall take effect on February 11, 1997.

Done in Tacloban City, Republic of the Philippines, this 19th day of January, 1997.

(SGD.) DIR. MELENCIO Q. BALANAG
Chairman

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

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

(SGD)MR.HERCULANO A. DUHAYLUNGSOD
Employers Representative

(Dissented)
(SGD) MR. MANUEL C. PORE
Workers Representative

(Dissented)
I dissent consistent with my stand in WO No. RB VIII-06

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

(SGD) DR. VIRGINIO A. ASTILLA
Employers Representative

Approved this 8th day of May, 1997.

(SGD) LEONARDO A. QUISUMBING
Secretary of Labor and Employment

Notations to Rules Implementing Wage Order No. RB VIII-06

1. *The title of the issuance should read "Rules Implementing Amended WO No. RB VIII-06."*
2. *Section 3. Chapter II, second paragraph shall be revised to the effect that only workers receiving a daily wage of P200.00 and below shall continue to receive the P12 COLA prescribed under WO RB VIII-04-A.*
3. *Section 14C, Chapter II shall also provide for the deadline for filing applications of MBEs (i.e. 60 days from date of registration).*
4. *The equivalent number of days in a year for groups C and D as per Annexes B1 and B2 shall be changed to 314.6 days and 262.6 days reflected to conform with Department Order No. 40.*