

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

**WAGE ORDER NO. RB VIII-07  
PRESCRIBING FOR NEW MINIMUM WAGE RATES**

WHEREAS, it is the declared policy of the State to protect the workers from inflationary effects of currency fluctuations in the international market without hampering the growth of business and industry;

WHEREAS, since July 11, 1997, the value of the Philippine Peso has depreciated against the value of the U.S. dollar triggering increases in the prices of prime and basic goods and services;

WHEREAS, in line with the mandate of the Board under R.A. 6727, to periodically review the existing wage levels in the regions, the Regional Tripartite Wages and Productivity Board in Eastern Visayas, motu proprio, conducted a series of consultations, on the wage issue with representatives for labor, management and government in Maasin, Southern Leyte and Catarman, Northern Samar on November 28, 1997, Catbalogan, Samar and Ormoc City on December 9, 1997 and in Tacloban City on December 11, 1997;

WHEREAS, the result of the consultations as well as the review on statistical economic indicators has revealed that the depreciation of the Philippine Peso has farther eroded the Purchasing Power of the workers based on the current minimum wage levels, that the Board considers as extra-ordinary and therefore justifies the grant of immediate relief to the lowly paid workers before the expiration of the twelve (12) month period as provided under Section 3, Rules IV of NWPC Guidelines No. 001-95, otherwise known as the Revised Rules of Procedures on Minimum Wage Fixing;

WHEREAS, it is imperative to provide immediate relief to the workers and their families in order for them to cope up with the increasing cost of living, without hampering the growth of business and industry;

WHEREAS, the Regional Board recognizes that granting higher wages will encourage higher productivity thereby ensuring the viability of business.

NOW THEREFORE, by virtue of the power and authority vested under Republic Act 6727, otherwise 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-06.

SECTION 2. Amount and Manner of Increase. Effective January 1, 1998, the minimum wage provided under Wage Order No. RB VIII-06 shall be increased by fifteen Pesos (Php15.00) per day.

The cost of Living Allowance of Twelve Pesos (Php12.00) per day being enjoyed by workers receiving above the minimum wage up to Two Hundred (Php200.00) Pesos per day, which was provided for Under Wage Order No. RB VIII-06, shall be integrated to the basic pay under this

Order. Provided further, that the integrated amount shall form part of the new prescribed wage increase.

SECTION 3. Basis of Minimum Wage Rates. The minimum wage rates prescribed under this Order shall be the normal working hours which shall not exceed eight (8) hours of work per day.

SECTION 4. 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 increased tuition fees. However, covered workers and employees shall be granted the wage increase prescribed hereof at the opening of School Year 1999-2000 regardless of whether or not an increase in tuition fees has been affected by private educational institutions.

#### SECTION 5. EXEMPTIONS

##### Coverage

1. Automatic Exemption. Households or domestic helpers and person in the personal service of another including family drivers are not covered by the provisions of this Order.
2. Non-Automatic Exemption. The following may, however be exempted from the Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations:
  - a. Retail /Service establishments regularly employing not more than ten (10) workers;
  - b. Distressed establishments 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 as SEC, DTI, CDA and Mayor's Office.

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 the deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the order amounts to less than 20% of the paid-up capital of the same period.
- b) For Single 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 the review.
- c) Non-stock non-profit organizations

When the net accumulated losses for the period under review preceding the effectivity of the Order amount to at least 15% but less than 20% of the fund balance/members' contribution at the beginning of the period under the 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 (2) years from the date of effectivity of this Order.

- C. Procedure. An application in three (3) legible copies may be filed with the Regional Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. Application shall be filed not later than sixty (60) days from the date of publication of the approval Rules Implementing this Order.

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

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

SECTION 6. Application to Contractors. In the case of contracts for construction projects and 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 principle or clients fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with the principal.

SECTION 7. 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 work a day or a portion thereof for working less than the normal working hours.

SECTION 8. 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 automatically modified insofar as their wage clauses are concerned to reflect the increase prescribed under this Order.**

**SECTION 9. Mobile and Branch Workers. The minimum wage rates of workers, who by the 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 10. 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 11. Freedom to Bargain. This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

SECTION 12. Creditable Benefits Derived from Productivity Gain-sharing Scheme. The benefits, derived from productivity gainsharing scheme consistently granted to the workers may be considered as compliance to the wage increase prescribed under this Order upon application 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 gainsharing 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 13. Non-Creditable Wage Increases. Anniversary wage increases provided in the Collective Bargaining Agreement, merit wage increase and those resulting from regularization or promotion of employee shall not be credited as compliance to the wage increase prescribed under this Order unless otherwise provided in the CBA itself.

SECTION 14. Wage Distortion. Where the application of the wage increase prescribed under this Order results in the distortion of the wage structure within an establishment, such as distortion shall be corrected using the procedure specified under Article 124 of the Labor Code of the Philippines, as amended.

SECTION 15. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase prescribed under this Order shall be filed with the Regional Office of the Department of Labor and Employment and shall be subject of enforcement proceedings under Articles 128 and 129 of the Labor Code of the Philippines, as amended.

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 this Regional Board.

SECTION 17. 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 employees.

SECTION 18. Penal Provision. Any person, corporation, trust, partnership, association or entity which refuses or fails to pay any prescribed increases or adjustments in the wage rates made in accordance with this Order shall be punished by a fine not less than Twenty Five Thousands Pesos (Php25,000.00)., or imprisonment of not less than two (2) years nor more than four (4) years, or both such fine and imprisonment at the discretion of the court. Provided, that any person convicted under this Order, shall not be entitled to the benefits provided for under the Probation Law.

The employer shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees. Provided further, that the payment of indemnity shall not absolve the employer from criminal liability imposable under this Order.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed on 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. Effect on Other Issuances. The provisions of existing laws and decrees on wages and their implementing rules and regulations and issuance not otherwise repealed, modified or inconsistent with this Order shall continue to have full force and effect.

SECTION 20. Separability Clause. If any provision or part of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

SECTION 21. Implementing Rules. The Regional Board shall prepare for approval of the Secretary of Labor and Employment upon recommendation of the NWPC, the necessary Implementing Rules and Regulations not later than ten (10) days from the issuance of the Wage Order.

SECTION 22. Effectivity. This Order shall take Fifteen (15) days after its publication in a newspaper of general circulation in the region.

Approved this 29<sup>th</sup> day of December, 1997 at Tacloban City, Philippines.

(SGD) HERCULANO A. DUHAYLUNGSOD  
Employer Representative

(SGD) MANUEL C. PORE  
Workers Representative

(SGD) VIRGINIO A. ASTILLA  
Employers Representative

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

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

(SGD) CYNTHIA R. NIERRAS  
Vice-Chairman

(SGD) BIENVENIDO C. ELORCHA  
Chairman

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

**RULES IMPLEMENTING WAGE ORDER NO. RB VIII-07**

Pursuant to the authority granted under Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 21 of Wage Order No. RB VIII-07, 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-07, 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-07;
- 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 statutory 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 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;
- 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, or other farm products;
- n. "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than 24 hectares in a locality on 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 (A) of the NWPC Guidelines No. 01, Series of 1996;
- r. "New Business Enterprises" refer to 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, CDA and mayor's office.
- 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-06;
- 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-06, 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 13, 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 13, Chapter II of this Rules;
- d. Workers and employees of New Business Enterprises outside export processing zones 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 13, Chapter II of this Rules;

Section 2. Amount and Manner of Minimum Wage Increase. Effective January 1, 1998, the minimum wage provided under Wage Order No. RB VIII-06 shall be increased by Fifteen Pesos (P15.00) per day.

The Cost of Living Allowance of Twelve Pesos (P12.00) per day being enjoyed by workers receiving above the minimum wage up to Two Hundred Pesos (PhP200.00) per day, which was provided under Wage Order No. RB VIII-06, shall be integrated to the basic pay under this Order. Provided further, that the integrated amount shall form part of the new prescribed wage increase.

Section 3. 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 4. 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 5. 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 6. 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 Department of Labor and Employment Regional Director.

B. Procedure of Crediting.

1. Filing of Application.

- a. An application for crediting, under oath, in three (3) 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;
1. Business Permit for the current year from the Office of the City/Municipal Mayor, SEC, DTI or CDA registration;
2. Copy of the Productivity Gainsharing Scheme duly certified by the labor and management representatives of the establishment; and
3. Proof of payment of benefits derived from productivity gainsharing 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 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 7. 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 1999-2000 regardless of whether or not an increase in tuition fees has been effected by private educational institutions.

Section 8. 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 9. 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 10. 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 January 1, 1998 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increase prescribed under the Order.

Section 11. 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 12. 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 13. Exemptions.

A. Coverage.

1. Automatic Exemption. Household of domestic helpers and persons in the personal service of another including family drivers are not covered by the provisions of this Order.
2. Non-Automatic Exemption. The following, may, however, be exempted from the Order upon application with and as determined by the Regional Board in accordance with applicable rules and regulations:
  - a. Retail/Service establishments regularly employing not more than ten (10) workers;
  - b. Distressed establishments suffering from capital impairment in accordance with Section 3 (A) of NWPC Guidelines No. 01, Series of 1996;
  - c. New Business Enterprises outside export processing zones 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 three (3) legible copies may be filed with the Regional Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. Application shall be filed not later than sixty (60) days from the date of publication of this Rules Implementing the Order duly approved by the Secretary of Labor and Employment.

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

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

- 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 three (3) legible 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 to 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) legible copies, not later than ten (10) days from receipt of the decision.

The appeal, with proof of service to the other party, shall be accompanied with a memorandum of appeal which shall state the date appellant received the decision, the grounds relied upon and the arguments in support thereof.

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

- 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 14. 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 15. 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 16. 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 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 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 19. Penal Provision. Any person, corporation, trust, partnership, association or entity which refuses or fails to pay any prescribed increases or adjustments in the wage rates made in accordance with this Order shall be punished by a fine of not less Twenty Five Thousand Pesos (PhP25,000.00) nor more than One Hundred Thousand Pesos (PhP100,000.00) or imprisonment of not less than two (2) years nor more than four (4) years, or both such fine and imprisonment at the discretion of the court. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

The employer shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees. Provided further, that the payment of indemnity shall not absolve the employee from criminal liability under this Order.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed on the entity's responsible officers,

including but not limited to, the president, vice-president, chief executive officer, general manager, managing director or partner.

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 the Order shall continue to have full force and effect.

Section 21 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 January 1, 1998.

Done in Pawing, Palo, Leyte, Philippines, this 2nd day of January, 1998.

(SGD) MR.HERCULANO A. DUHAYLUNGSOD  
Employers Representative

(SGD) MR. MANUEL C. PORE  
Workers Representative

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

(SGD) DR. VIRGINIO A. ASTILLA  
Employers Representative

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

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

(SGD) BIENVENIDO C. ELORCHA  
Chairman

Approved this 4th day of February, 1998.

(SGD) CRESENCIANO B. TRAJANO  
Acting Secretary

## ANNEX A1

Daily Minimum Wage Rates. The daily minimum wage rates of workers and employees in Region VIII shall be as follows:

Sector/Industry	Under Wage Order No. RB VIII-06 (Effective June 1, 1997)		Under Wage Order No. RB VIII-07 (Effective January 1, 1998)	
	Leyte Province, Tacloban City and Ormoc City	Southern Leyte, Northern Samar, Eastern Samar, Samar, Biliran And Calbayog City	Leyte Province, Tacloban City and Ormoc City	Southern Leyte, Northern Samar, Eastern Samar, Samar, Biliran and Calbayog City
NON-AGRICULTURE	138.00	134.00	153.00	149.00
AGRICULTURE				
Plantation with annual gross sales of P5M or more	128.00	124.00	143.00	139.00
Plantation with annual gross sales of less than P5M	123.00	119.00	138.00	134.00
COTTAGE/HANDICRAFT				
Employing more than 30 workers	116.00	112.00	131.00	127.00
Employing not more than 30 workers	114.00	110.00	129.00	125.00
PRIVATE HOSPITALS	134.00	130.00	149.00	145.00
RETAIL SERVICE				
Cities with population of more than 150,000				
Employing more than 15 workers	138.00	134.00	153.00	149.00
Employing 11 to 15 workers	134.00	130.00	149.00	145.00
Employing not more than 10 workers	107.00	103.00	122.00	118.00
Cities and Municipalities with population of not more than 150,000				
Employing more than 10 workers	134.00	130.00	149.00	145.00
Employing not more than 10 workers	107.00	103.00	122.00	118.00
SUGAR				
*Mills	140.00	136.00	155.00	151.00
Agriculture				
Plantation with annual gross sales of P5M or more	122.50	118.50	137.50	133.50
Plantation with annual gross sales of less than P5M	117.50	113.50	132.50	128.50
Non-Plantation	107.50	103.50	122.50	118.50

## ANNEX A2

Sector/Industry	Under Wage Order No. RB VIII-06 (Effective June 1, 1997)		Under Wage Order No. RB VIII-07 (Effective January 1, 1998)	
	Leyte Province, Tacloban City, and Ormoc City	Southern Leyte, Northern Samar, Eastern Samar, Samar, Biliran and Calbayog City	Leyte Province, Tacloban City, and Ormoc City	Southern Leyte, Northern Samar, Eastern Samar, Samar, Biliran and Calbayog City
BUSINESS ENTERPRISE WITH CAPITALIZATION OF NOT MORE THAN P500,000 AND EMPLOYING NOT MORE THAN 20 WORKERS				
NON-AGRICULTURE	128.00	124.00	143.00	139.00
AGRICULTURE PLANTATION				
Products other than sugar	118.00	114.00	133.00	129.00
Sugar	112.50	108.50	127.50	123.50
PRIVATE HOSPITALS	124.00	120.00	139.00	135.00
RETAIL SERVICE				
Cities with population of more than 150,000				
Employing more than 15 workers	128.00	124.00	143.00	139.00
Employing 11 to 15 workers	124.00	120.00	139.00	135.00
Cities and Municipalities with population of not more than 150,000				
Employing more than 10 workers	124.00	120.00	139.00	135.00

Annex B1

SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY MINIMUM WAGE RATES

Without prejudice to existing company practices, agreements of policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rates:

A. For those who are required to work everyday including Sundays or Rest Days, Special Days and Regular Holidays:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 391.50}{\text{days}} \quad 1/$$

Where 391.50 days:

$$\begin{aligned} 302 \text{ days} &= \text{Ordinary Working Days} \\ 20.6 \text{ days} &= 9 \text{ Regular Holidays X } 200\% \text{ plus } 1 \text{ regular holiday Sunday X } 260\% \\ 66.30 \text{ days} &= 51 \text{ Rest Days X } 130\% \\ \underline{2.60 \text{ days}} &= 2 \text{ special days X } 130\% \\ 391.50 \text{ days} &= \text{Total equivalent number of days} \end{aligned}$$

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

$$\text{EMR} = \frac{\text{ADR X } 365}{12 \text{ days}}$$

Where 365 days:

$$\begin{aligned} 302 \text{ days} &= \text{Ordinary working days} \\ 51 \text{ days} &= \text{Rest Days} \\ 10 \text{ days} &= \text{Regular holidays} \\ \underline{2 \text{ days}} &= \text{Special Days} \quad 2/ \\ 365 \text{ days} &= \text{Total Equivalent number of days} \end{aligned}$$

ANNEX B2

C. For those who do not work and are not considered paid on Sundays or Rest Days:

$$\text{EMR} = \frac{\text{ADR X } 314 \text{ DAYS}}{12}$$

Where 314 days:

$$\begin{aligned} 302 \text{ days} &= \text{Ordinary working days} \\ 10 \text{ days} &= \text{Regular holidays} \\ 2 \text{ days} &= \text{Special Days (If considered paid; if actually worked, this is equivalent to 2.6 days) } 2/ \\ 314 \text{ days} &= \text{Total Equivalent number of days} \end{aligned}$$

D. For those who do not work and are not considered paid on Saturdays or Rest Days:

$$\text{EMR} = \text{ADR X } 262 \text{ DAYS} / 12$$

Where 262 days:

$$\begin{aligned} 250 \text{ days} &= \text{Ordinary working days} \\ 10 \text{ days} &= \text{Regular holidays} \\ 2 \text{ days} &= \text{Special Days (If considered paid; if actually worked, this is equivalent to 2.6 days) } 2/ \\ 262 \text{ days} &= \text{Total Equivalent number of days} \end{aligned}$$

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1/ Includes premium for holidays, special and rest days

2/ November 1 and December 31 under Executive Order No. 203 dtd. June 30, 1987.

Note: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being a regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them is included in the ten regular holidays. For workers whose rest days do not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

Nothing herein shall be construed as authorizing the reduction of benefits granted under existing agreements or employer practices/policies