

Republic of the Philippines  
 Department of Labor and Employment  
 National Wages and Productivity Commission  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD**  
 Region 10, Northern Mindanao

**Amendments to Wage Order No. RX-10**  
**“PROVIDING FOR NEW MINIMUM WAGE RATES IN REGION X”**

**Whereas**, the Board issued Wage Order No. RX-10 on July 26, 2004 providing for new minimum wage rates in Region X effective August 12, 2004;

**Whereas**, for clarity and efficient implementation of the Wage Order, the Board resolved to amend certain provisions of the said Order;

**NOW, THEREFORE**, by virtue of the power and authority vested in the Board by Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Region X, hereby issues these amendments to Sections 1, 2, 3, 4, 5, 8, 9, 12, 19 and 26 of Wage Order No. RX-10, to read as follows:

**Section 1. INTEGRATION OF COLA** – The P12.00 per day COLA granted under Wage Order No. RX-09 shall be integrated into the basic wage.

**Section 2. GRANT OF ADDITIONAL BASIC WAGE.** All workers and employees in the private sector in Region X who are receiving a daily wage, inclusive of any COLA, of TWO HUNDRED THIRTY PESOS (P230.00) and below shall be entitled to the following additional basic wage increase:

- 2.1** Workers in the Cities of Gingoog, Malaybalay, Oroquieta, Ozamis, Tangub and Valencia reclassified from Category 1 to Category II shall be granted a P3.00 daily basic wage increase
- 2.2** All other workers shall be granted a P10.00 daily basic wage increase.
- 2.3** All sugar industry agricultural workers shall be granted a P3.00 daily basic wage/pakyaw rate increase.

**Section 3. COVERAGE.** All workers and employees in the private sector in Region X who are receiving a daily wage, inclusive of any COLA, of TWO HUNDRED THIRTY PESOS (P230.00) and below, shall be entitled to the additional amount mentioned in Section 2.

Workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority, household or domestic helpers and persons in the personal service of another, including family drivers are not covered by this Order

**Section 4. AREA RECLASSIFICATION.** For purposes of the prescribed increases in this Wage Order, the areas in Region X shall be regrouped, as follows:

- a. Wage Category I* – Cities of Cagayan de Oro and Iligan, and the Municipalities of Tagoloan, Villanueva and Jasaan in Misamis Oriental;
- b. Wage Category II* – All other Cities and Municipalities of Region X.

**Section 5. AMOUNT OF THE NEW WAGE RATES .**

Upon effectivity, the new minimum wage rates of workers and employees in the private sector in Region X shall be as follows:

Classification	Category I	Category II
	Minimum Basic Wage	Minimum Basic Wage
Non-Agriculture	P202.00	P195.00
Agriculture	P192.00	P185.00

**Section 8. ALTERNATIVE INCOME GENERATION/PRODUCTIVITY PROGRAM.** All stakeholders are encouraged to undertake on a voluntary basis:

a. Labor needs assessment for the creation of livelihood projects to augment income and empower workers to manage self-sustaining livelihood projects, and other alternative means of meeting the demands for an improved standard of living;

b. Adopt productivity improvement and may use the **ISTIV program** which is a human resource development approach of NWPC-RTWPB-DOLE. ISTIV is an acronym of the five (5) basic ideal values namely, **I**ndustrious, **S**ystematic, **T**ime-conscious, **I**nnovative and **S**trong Value for work.

**Section 9. CREDITABLE WAGE INCREASE.** All wage increases granted to workers within three (3) months prior to the effectivity of Wage Order No. RX-10 shall be credited as compliance, provided where such increases are less than the prescribed adjustment, the employer shall pay the difference.

Such creditable increases shall not include anniversary wage increases, merit increases and those resulting from the regularization or promotion of employees, unless there is an agreement expressly allowing such crediting.

**Section 12. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, minimum wage adjustments shall take effect in school year 2005-2006. However, any increases granted at the beginning of the school year 2004-2005 shall be deemed credited, provided that if such increase is less than the prescribed minimum wage, the employer shall give the difference in the next school year.

**Section 19. EFFECTS ON EXISTING WAGE STRUCTURE OR WAGE DISTORTION.** Where the application of the increases in the wage rates under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code, as amended.

**Section 26. REPEALING CLAUSE.** All orders, issuances, rules and regulations or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

**APPROVED. December 15, 2004, Cagayan de Oro City, Philippines.**

**ARSENIO L. SEBASTIAN III**  
Management Representative

**FLORENCIA P. CABATINGAN**  
Labor Representative

**PRUDENCIO T. PLAZA, JR.**  
Management Representative

**LORENZO C. TONGCO**  
Labor Representative

**CASIMIRA V. BALANDRA**  
Vice-Chairman, NEDA-X

**NINFA ALONG-ALBANIA**  
Vice-Chairman, DTI-X

**ROGELIO P. CATOTAL**  
Chairman, DOLE-X

Rules Implementing Wage Order No. RX-10 Providing for  
New Minimum Wage Rates in Region X

Pursuant to Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing, and the authority granted to the Regional Tripartite Wages and Productivity Board under Republic Act No. 6727, the following rules are hereby issued for the guidance and compliance by all concerned.

**Rule 1**  
**PRELIMINARY PROVISIONS**

**Section 1. TITLE.** These Rules shall be known as the Rules Implementing Wage Order No. RX-10.

**Section 2. DEFINITION OF TERMS.**

- a) Order refers to Wage Order No. RX-10;
- b) Commission refers to the National Wages and Productivity Commission;
- c) Board refers to the Regional Tripartite Wages and Productivity Board, Region X;
- d) Region X covers the Provinces of Bukidnon, Camiguin, Misamis Occidental, Misamis Oriental and Lanao del Norte, and the Cities of Cagayan de Oro, Iligan, Gingoog, Oroquieta, Ozamis, Tangub, Malaybalay and Valencia;
- e) Retail Establishment is one principally engaged in the sale of goods to end-users for personal or household use;
- f) Service Establishment is one principally engaged in the sale of service to individuals for their own or household use and generally recognized as such;
- g) Distressed Establishment refers to an establishment which meets the criteria enumerated under these Rules and Section 3(A) of NWPC Guidelines No. 01 Series of 1996;
- h) Barangay Micro Business Enterprise (BMBE) refers to any business entity or enterprise issued with a Certificate of Authority under RA 9178.
- i) Department refers to the Department of Labor and Employment;
- j) Basic Wage or Basic Pay means all remuneration or earnings paid by an employer to a worker for services rendered on normal workings days and hours but does not include cost of living allowances, profit sharing payments, premium payments, 13<sup>th</sup> month pay and other monetary benefits which are not considered as part of or integrated into the regular salary of the workers.
- k) COLA means cost of living allowance;
- l) Daily Wage refers to the daily basic wage plus any COLA;
- m) Wage Distortion means a situation where an increase in prescribed wage results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishments as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation;
- n) Establishment refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location;

- o) Capital refers to paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships;
- p) Full Accounting Period refers to a period of twelve (12) months or one year of business operations;
- q) Deficit refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, dividend distributions, prior period adjustments and other capital adjustments;
- r) New Business Enterprises refer to establishments, including non-profit institutions, established outside export processing zones within two (2) years from effectivity of Wage Order No. RX-10 based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and the Mayor's Office;
- s) Agriculture refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds and any activity performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, tobacco, pineapple, or other farm products.;
- t) Sugar Industry refers to cultivation of the land appropriate for the plantation of sugar cane, which includes all activities from the cultivation of the land, the planting of sugar canes up to the time of the harvesting of the same;
- u) Pakyaw Rate refers to the rate of remuneration earned by a worker for performing a specific work regardless of the time consumed in the performance thereof;
- v) Piece rate and takay refer to the rate per unit of product or service.
- w) Sugar Planter refers to the person in lawful possession of the land devoted to sugar-cane plantation;
- x) Sugar Industry Agricultural Worker refers to the person hired by the sugar planter to do any of the activities in the sugar-cane plantation;
- y) Lacsá is equivalent to 10,000 cane points;
- z) Roamplow refers to the activity which includes turning up the soil, casting out the roots, loosening the soil, aerating the soil, burying the stubble and weeds, with the end purpose of exposing the sub-soil;
- aa) Mold-board refers to the curved metal plate of a plow attached to the tractor, by which the soil is turned over and pulverized;
- bb) Harrowing refers to the act of breaking up clods and covering seeds by using a heavy frame with iron teeth dragged over ploughed lands;
- cc) Tagad refers to the practice of applying fertilizer using an instrument also called "tagad";
- dd) Bubod refers to the practice of applying fertilizer by spreading it on the soil;
- ee) Sinsillo refers to the top portion of the sugar-cane which is fit for planting;
- ff) Gupod refers to the lower portion of the sugar-cane which is ready for planting;
- gg) High Density is when the spaces not planted with sugar-cane are covered with 70-100% weeds;
- hh) Medium Density is when the spaces not planted with sugar-cane plant are covered with 50-69% weeds;
- ii) Low Density is when the spaces not planted with sugar-cane plant are covered with less

jj) Hilling-up commonly known as “surko” is the practice of covering the planted sugar-cane with additional soil by using a plow drawn by a carabao;

kk) Ratoon means the second or third cropping of the sugar-canes;

**Section 3. AREA RECLASSIFICATION.** For purposes of the prescribed increases in this Wage Order, the areas in Region 10 shall be regrouped, as follows:

- a. *Wage Category I* – Cities of Cagayan de Oro and Iligan, and the Municipalities of Tagoloan, Villanueva and Jasaan in Misamis Oriental;
- b. *Wage Category II* – All other Cities and Municipalities of Region X.

## **RULE II**

### **NEW MINIMUM WAGE RATES**

**Section 1. INTEGRATION OF COLA** – The P12.00 per day COLA granted to workers receiving the minimum wage up to P210.00 per day under Wage Order No. RX- 09 shall be integrated into the basic wage effective August 12, 2004.

**Section 2. GRANT OF ADDITIONAL BASIC WAGE.** All workers and employees in the private sector in Region 10 who are receiving a daily wage, inclusive of any COLA, of Two Hundred Thirty (P230.00) and below shall be entitled to the following additional basic wage:

- 2.1 Workers in the Cities of Gingoog, Malaybalay, Oroquieta, Ozamis, Tangub and Valencia reclassified from Category 1 to Category II shall be granted a P3.00 daily basic wage increase;
- 2.2 All other workers shall be granted a P10.00 daily basic wage increase.
- 2.3 All sugar industry agricultural workers shall be granted a P3.00 daily basic wage/pakyaw rate increase.

**Section 3. COVERAGE .** All workers and employees in the private sector in Region X who are receiving a daily wage, inclusive of any COLA, of TWO HUNDRED THIRTY PESOS (P230.00) and below shall be entitled to the additional amount mentioned in Section 2

Workers of registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority, household or domestic helpers and persons in the personal service of another, including family drivers are not covered by this Order.

**Section 4. AMOUNT OF THE NEW WAGE RATES.** Upon effectivity of the Order, the new daily minimum wage rates of workers and employees in the private sector of Region X shall be as follows:

Classification	Wage Category I	Wage Category II
	Minimum Wage	Minimum Wage
Non-Agriculture	<b>P202.00</b>	<b>P195.00</b>
Agriculture	<b>P192.00</b>	<b>P185.00</b>

**Section 5. AGRICULTURAL WORKERS IN THE SUGAR INDUSTRY .**  
For agricultural workers in the Sugar Industry in Region X, the applicable new

ACTIVITY	RATE	ACTIVITY	RATE
<b>A. Land preparation and Cultivation</b>			
1. Roamplow	P 278.00/ha.	7. Cutting cane points with peeling	P 605.00/lacsa
a. Moldboard-labor component			
b. Animal Plowing		8. Fertilizing	
b.1 Owned by planter	P 185.00/day	a. Tagad	P 48.00/bag
b.2 Owned by worker		b. Bubod	P 39.00/bag
excluding premium rate of animal			
* Normal Soil	P 1,210.00/ha.	9. Weeding	
* Coarse and Hilly	P 2,176.00/ha.	a. High density	P 1,210.00/ha
		b. Medium density	P 725.00/ha.
2. Harrowing (Karas) – labor Component	P 54.00/ha.	c. Low density	P 484.00/ha.
		10. Hilling-up (1 meter distance between rows)	P 185.00/pass /Ha.
3. Planting basal including peeling	P 544.00/lacsa	11. Harvesting (cutting and Loading zero trash)	P 120.00/ton
4. Hauling cane points		<b>B. RATOON</b>	
a. Loading only	P 72.00/lacsa	1. Peeling and replanting	P 605.00/lacsa
b. Loading and Unloading	P 120.00/lacsa	2. Trash scattering, burning and cutting stump	P 484.00/lacsa
5. Cutting cane points			
a. Sinsillo	P 362.00/lacsa		
b. Gupod	P 302.00/lacsa		
6. Peeling	P 120.00/lacsa		

**Section 6. BASIS OF MINIMUM WAGE .** The minimum wage rates prescribed under this wage order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

**Section 7. ALTERNATIVE INCOME GENERATION/PRODUCTIVITY PROGRAM .** All stakeholders are encouraged to undertake on a voluntary basis:

- a. Labor needs assessment for the creation of livelihood projects to augment income and empower workers to manage self-sustaining livelihood projects, and other alternative means of meeting the demands for an improved standard of living;
- b. Adopt productivity improvement and may use the **ISTIV program** which is a human resource development approach of NWPC-RTWPB-DOLE. ISTIV is an acronym of the five (5) basic ideal values namely, **I**ndustrious, **S**ystematic, **T**ime-conscious, **I**nnovative and **S**trong **V**alue for work.

**Section 8. CREDITABLE WAGE INCREASE .** Any increase in wages and/or allowances granted to workers within three (3) months prior to the effectivity of Wage Order No.

RX-10 shall be credited as compliance, provided where such increases are less than the prescribed adjustment, the employer shall pay the difference.

Such creditable increases shall not include anniversary wage increases, merit increases and those resulting from the regularization or promotion of employee, unless there is an agreement expressly allowing such crediting.

**Section 9. APPLICATION TO SECTORS AND SUBSECTORS WHOSE REVENUES ARE REGULATED BY LAW AND OTHER APPROPRIATE GOVERNMENT ENTITIES .** Entities whose revenues are regulated by law and other appropriate government offices shall comply with this Wage Order upon approval of the adjustment in their rates by the concerned government agencies and instrumentalities or not later than three (3) months from the effectivity of the Wage Order, whichever comes earlier.

**Section 10. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.** In the case of private educational institutions, minimum wage adjustments shall take effect in school year 2005-2006. However, any increases granted at the beginning of the school year 2004-2005 shall be deemed credited, provided that if such increase is less than the prescribed minimum wage, the employer shall give the difference in the next school year.

**Section 11. APPLICATION TO CONTRACTORS .** In the case of contracts for construction projects, security, janitorial and similar services, the prescribed increases in the wage rates of the workers 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 increase or new minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

**Section 12. 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 new minimum wage per eight (8) hours of work a day, or a proportion thereof for working less than eight hours.

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

- a. )  $\frac{\text{Amount of increase in AMW} \times 100}{\text{Previous AMW}}$  = % increases
- b. ) Existing rate/piece x %increase = increase in rate/piece
- c. ) Existing rate/piece + Increase in rate/piece = adjusted rate/piece

The wage rate 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 13. WAGES OF SPECIAL GROUPS OF WORKERS .** Wages of apprentices and learners shall in no case be less than 75 percent of the adjusted minimum wage rates prescribed in the Order.

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

**Section 14. SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY REGIONAL MINIMUM WAGE RATES :**

**I. For Non-Muslim Areas ( Cities of Cagayan de Oro, Gingoog, Oroquieta, Ozamis, Tangub, Malaybalay and Valencia, and Provinces of Bukidnon, Camiguin, Misamis Occidental and Misamis Oriental):**

- a. For those who are required to work everyday including Sundays or rest days, special days and regular holidays:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 392.80 \text{ days}}{12}$$

12

Where 392.80 days:

- 300 days – Ordinary working days
- 20 days – 10 regular holidays x 200%
- 2.6 days – 1 regular holiday  
(falling on last Sunday of August x 200% + (30% of 200%))
- 66.30 days – 51 rest days x 130%
- 3.90 days - 3 special days x 130%
- 392.80 days – Total equivalent number of days

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

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

Where 365 days:

- 300 days – Ordinary working days
- 51 days – Rest days
- 11 days – Regular holidays
- 3 days – Special days
- 365 days – Total equivalent number of days

c. For those who do not work and are not considered paid on Sundays or rest days:

$$\text{EMR} = \frac{\text{ADR} \times 314 \text{ days}}{12}$$

Where 314 days:

- 300 days – Ordinary working days
- 11 days – Regular holidays
- 3 days – 3 Special days (if considered paid; if actually worked x 130%)
- 314 days – Total equivalent number of days

d. For those who do not work and are not considered paid on Saturdays and Sundays or rest days:

$$\text{EMR} = \frac{\text{ADR} \times 262 \text{ days}}{12}$$

Where 262 days:

- 248 days – Ordinary working days
- 11 days – Regular holidays
- 3 days – 3 Special holidays (if considered paid; if actually worked x 130%)
- 262 days – Total equivalent number of days

## II. For Muslim Areas ( City of Iligan and Province of Lanao del Norte)

a. For those who are required to work everyday including Sundays or rest days, special days and regular holidays and Muslim Legal Holidays:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 396.80 \text{ days}}{12}$$

where 396.80 days:

- 296 days – Ordinary working days
- 20 days – 10 regular holidays x 200%
- 2.6 days – 1 regular holiday(falling on last Sunday of August x 200%+ [30% of 200%])
- 8 days – 4 Muslim Legal Holidays x 200%
- 66.30 days – 51 rest days x 130%
- 3.90 days – 3 special days x 130%
- 396.80 days – Total equivalent number of days

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

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

Where 365 days:

- 296 days – Ordinary working days
- 51 days – Rest days
- 11 days – Regular holidays
- 4 days – Muslim Legal Holidays
- 3 days – Special days
- 365 days – Total equivalent number of days

c. For those who do not work and are not considered paid on Sundays or rest days:

$$\text{EMR} = \frac{\text{ADR} \times 314 \text{ days}}{12}$$

Where 314 days:

- 296 days – Ordinary working days
- 11 days – Regular holidays
- 4 days – Muslim Legal Holidays
- 3 days – 3 Special days (if considered paid; if actually worked x 130%)

d. For those who do not work and are not considered paid on Saturdays and Sundays or rest days:

$$\text{EMR} = \text{ADR} \times \frac{262 \text{ days}}{12}$$

Where 262 days:	12
244 days – Ordinary working days	
11 days – Regular holidays	
4 days – Muslim Legal holidays	
<u>3 days</u> – 3 Special holidays ( if considered paid; if actually worked x 130%)	
262 days – Total equivalent number of days	

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 regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them, is included in the eleven regular holidays.

For workers whose rest days does not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

**Section 15. 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 within the Region shall be those applicable in the place where they are stationed.

**Section 16. TRANSFER OF PERSONNEL .** The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to the other Regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

**Section 17. APPEAL TO THE COMMISSION .** Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

**Section 18. EFFECT OF APPEAL .** The filing of appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

### **RULE III EXEMPTION**

**Section 1. WHO MAY BE EXEMPTED .** Upon application with, and as determined by the Board, in accordance with the applicable rules and regulations issued by the Commission, the following maybe exempted from the applicability of the Order:

- a.) Retail/Service establishment employing not more than ten (10) workers;
- b.) Distressed establishments which include the following:
  - b.1) Stock Corporations/Cooperatives
  - b.2) Single Proprietorship/Partnership
  - b.3) Non-Stock Non-profit organization
  - b.4) Bank and quasi-banks under receivership/liquidation and under controllership/conservatorship
- c.) New Business Enterprise (NBEs) as defined under Rule 1; and
- d.) Establishment adversely affected by natural calamities

**Section 2. APPLICATION FOR EXEMPTION.** Not later than SEVENTY-FIVE (75) days from the date of publication of these Rules, qualified establishments particularly, the owner/manager or duly authorized representative thereof, either through personal service or by registered mail, may file an application for exemption with the Board in three (3) copies.

All applications for exemption shall be under oath and accompanied by complete supporting documents as enumerated under Section 3, Rule III of these Rules.

No extension for filing and submission of the required documents shall be allowed pursuant to NWPC Resolution No. 1, series of 1999.

The date of mailing shall be deemed as the date of filing.

New Business established after the effectivity of this Wage Order may file an application for exemption with the Board not later than sixty (60) days from date of registration.

All applications for exemption must be supported by proof of notice to the Union President (in case the establishment is organized) or a copy of the circular giving general notice to all workers (if there is no union), that an application for exemption from compliance with the Order has been filed with the Board. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be duly acknowledged by the union or the workers' representative of an unorganized establishment and shall be posted in a conspicuous place in the establishment.

**Section 3. SUPPORTING DOCUMENTS.** Aside from those prescribed in Sec. 2 Rule III of these Rules, and in accordance with the rules prescribed in the NWPC Revised Guidelines on Exemption, the following supporting documents shall be submitted together with the application:

- A. For Retail/Service Establishments employing not more than ten (10) workers:
  1. Affidavit from the employer stating the following:
    - a) It is a retail/service establishment
    - b) It is regularly employing not more than ten (10) workers for at least six months in any calendar year;
    - c) Number of employees with its corresponding names and date of employment.
  2. Business permit for the current year from the appropriate government agency.
  
- B. For Distressed Establishments:
  1. For Corporations, cooperatives, single proprietorships, partnerships, Non-stock, non-profit organizations.
    - a.) Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last two (2) full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriate government agency;
    - b) Audited interim quarterly financial statements (together with the notes thereto) for the period immediately preceding the effectivity of the order;
  2. For Banks and Quasi-banks
    - a.) Certification from Bangko Sentral ng Pilipinas that it is under receivership/liquidation
  
- C. For New Business Enterprises
  1. Affidavit from employer regarding the following:
    - a) Princinal economic activitv:

- c) Number of employees with its corresponding names and date of employment;
  - d) Amount of total assets.
2. Certificate of registration from the appropriate government agency.
- D. For establishments Adversely Affected by Natural Calamities.
1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
    - a.) Date and type of calamity ;
    - b.) Amount of losses/damages suffered as a direct result of the calamity;
    - c.) List of properties damaged/lost together with estimated evaluation;
    - d.) For properties that are not insured, a statement that the same are not covered by insurance.
  2. Copies of insurance policy contracts covering the properties damaged, if any;
  3. Adjuster's report for insured properties;
  4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency.

In case an application for exemption is filed with incomplete supporting documents, the applicant shall be notified and shall be given ten (10) days from receipt of the notice to complete the documents required, otherwise the application shall be dismissed.

The Board may require submission of other pertinent documents to support the application for exemption.

**Section 4. DURATION AND EXTENT OF EXEMPTION .** Qualified establishments shall be granted full exemption of one (1) year from the effectivity of the Order for all categories of exemption.

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 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 proprietorships/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 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.

**Section 5. EFFECT OF FILING AN APPLICATION FOR EXEMPTION .** Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

**Section 6. EFFECT OF DISAPPROVED APPLICATION .** In the event that an application for exemption is denied, the employees of the applicant firm shall receive the appropriate wage increase due them as provided for under this Wage Order plus a simple interest of one percent (1%) per month retroactive to the effectivity of the Order.

**Section 7. MOTION FOR RECONSIDERATION .** An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt of the decision, stating the particular grounds upon which the motion is based, copy furnished the other party. The DOLE Regional Office X should also be furnished a copy of the motion for reconsideration.

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

**RULE IV  
SPECIAL PROVISIONS**

**Section 1. EFFECT ON EXISTING WAGE STRUCTURES .** Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct such distortions through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

The management and the officers of labor union or workers' representatives of affected establishments shall endeavor to resolve the distortion within sixty (60) days from the date of recognition that a wage distortion exists from any of the parties thru the filing of a notice, with management having the primary responsibility of initiating the action.

The pendency of a dispute arising from wage distortion shall not in any way delay the applicability of any increase prescribed in the Order.

Adjustment of wage distortions may be computed using the following suggested formula:

Assume:            Current employee's wage - P240.00  
                       Current wage ceiling        - 230.00  
                       Mandated wage increase - 10.00

$$\begin{aligned} \text{Wage Distortion Adjustment} &= \frac{\text{Current Ceiling} \times \text{Wage increase}}{\text{Current Wage of employee}} \\ &= \frac{P 230.00 \times P 10.00}{P 240.00} = P9.58 \end{aligned}$$

$$\begin{aligned} \text{Adjusted Wage} &= \text{Wage of employee} + \text{wage distortion adjustment} \\ &= P 240.00 + P9.58 = P 249.58 \end{aligned}$$

**Section 2. COMPLAINTS FOR NON-COMPLIANCE.** Complaints for non-

jurisdiction over the workplace and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

**Section 3. CONDUCT OF INSPECTION BY THE DEPARTMENT .** The Department shall conduct inspections of establishments, as often as necessary, to determine whether that workers are paid the prescribed wage rates and other benefits granted by law or any Wage Order. In the conduct of inspection in unionized companies, Department inspectors shall always be accompanied by the president or other responsible officer of the recognized bargaining unit or of any interested union. In the case of non-unionized establishments, a worker representing the workers in the said company will accompany the inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not concur with the findings of the labor inspector.

**Section 4. NON-DIMINUTION OF BENEFITS .** Nothing in the Order and in this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and the employers.

**Section 5. PENAL PROVISION .** Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in the Order shall be punished by a fine of not less than Twenty-Five Thousand Pesos (P25,000.00) nor more than One Hundred Thousand Pesos (P100,000.00) 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 concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees. Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposable under the Act.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of 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 6. PROHIBITION AGAINST INJUNCTION .** No preliminary or permanent injunction or temporary restraining order may be issued by any Court, tribunal or other entity against any proceedings before the Commission or Board.

**Section 7. FREEDOM TO BARGAIN .** The Order shall not be construed to prevent any party from granting or bargaining for higher wages and flexible working arrangements.

**Section 8. REPORTING REQUIREMENT S.** Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2005 and every year thereafter in accordance with the form prescribed by the Commission. Henceforth, all establishments applying for exemptions from wage orders subsequently issued by this Board shall be required to submit said document.

**Section 9. REPEALING CLAUSE .** All orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provisions of the Wage Order and these Rules are hereby repealed, amended or modified accordingly.

**Section 10. SEPARABILITY CLAUSE .** If any provision or part of the Order and these Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and these Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

**Section 11. EFFECTIVITY .** These Rules shall take effect on August 12, 2004.

**APPROVED, Approved July 26, 2004, Cagayan de Oro City, Philippines.**

I dissent on Rule1, Sec. 3; Rule II, Sec. 2,3, & 4. Please refer to dissenting opinion in the Wage Order.

**ARSENIO L. SEBASTIAN III**  
Management Representative

**FLORENCIA P. CABATINGAN**  
Labor Representative

I dissent on Rule 1, Sec. 3- Wage Area Classification, the classification under Wage Order #09 should be retained.

**PRUDENCIO T. PLAZA, JR.**  
Management Representative

**LORENZO C. TONGCO**  
Labor Representative

**CASIMIRA V. BALANDRA**  
Vice-Chairman, NEDA-X

**NINFA ALONG ALBANIA**  
Vice-Chairman, DTI-X

**ROGELIO P. CATOTAL**  
Chairman, RTWPB-X  
Regional Director, DOLE-X

Approved:

**PATRICIA A. STO. TOMAS**  
Secretary  
DEPARTMENT OF LABOR AND EMPLOYMENT