

Republic of the Philippines
 DEPARTMENT OF LABOR AND EMPLOYMENT
 National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
 Region 10, Northern Mindanao

WAGE ORDER NO. RX-11
Providing New Minimum Wage Rates in Region X

WHEREAS, under R.A. 6727 (The Wage Rationalization Act), Regional Tripartite Wages and Productivity Boards (RTWPBs) are mandated to determine and fix minimum wage rates in their respective regions;

WHEREAS, RTWPB-X issued Wage Order No. RX-10 granting wage increase to all covered private sector workers in the region effective 12 August 2004;

WHEREAS, Section 3, Rule IV of NWPC Revised Rules of Procedures on Minimum Wage Fixing provides that any Wage Order issued by the Board may not be disturbed within 12 months from effectivity and no petition for wage increase shall be entertained within the same period, except when there is supervening condition such as extraordinary increase in prices of petroleum products and basic goods/services which demands a review of minimum wage rates as determined by the Board and confirmed by the Commission;

WHEREAS, the Board has determined, as confirmed by the National Wages and Productivity Commission, that a supervening condition exists in the region due to erosion of the purchasing power of the peso resulting from the increase in prices of petroleum products, basic goods, transport and power costs. Hence, motu proprio, the Board reviewed the minimum wage;

WHEREAS, in view of the changes in the socio-economic indicators, the ALU-TUCP filed on 5 May 2005 a petition for P100 per day across-the board wage increase;

WHEREAS, after publication and due notice to all concerned sectors, the Board conducted provincial consultations/dialogues/region-wide public hearing on 5, 10, 12, 16, 17 and 20 May 2005, respectively;

WHEREAS, the Board deliberated on the results of the public hearing, the consultations and the supervening conditions and found the need to grant relief to private sector workers in Region-X to help them cope with the rising cost of living without impairing the productivity and viability of business and industry therein;

WHEREAS, consistent with the government's policy of achieving higher levels of productivity to promote economic growth and generate employment, and to augment the income of workers, there is need to build the capacity of business enterprises to be competitive through productivity improvement and gain sharing programs.

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 Region 10 hereby issues this Wage Order:

Section 1. AMOUNT OF WAGE INCREASE. Upon effectivity, all workers and employees in the private sector in Region X receiving the minimum wage shall be entitled to a cost of living allowance of Sixteen Pesos (P16.00) per day.

The new minimum daily wage rates of covered workers and employees of this Wage Order in the private sector in Region X shall be as follows:

Classification	Non-Agriculture			Agriculture		
	Basic	COLA	Total	Basic	COLA	Total
Category I	P202.00	16.00	218.00	P192.00	16.00	208.00

Category II	P195.00	16.00	211.00	P185.00	16.00	201.00
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Where,

Wage Category I comprises the Cities of Cagayan de Oro and Iligan, and the Municipalities of Tagoloan, Villanueva and Jasaan in Misamis Oriental; and

Wage Category II comprises all the other Cities and Municipalities of Region X.

Section 2. COVERAGE. The cost of living allowance prescribed herein shall apply to all minimum wage earners in the private sector in the region, regardless of their position, designation or status and irrespective of the method by which their wages are paid.

This Wage Order shall not cover household or domestic helpers and persons in the personal service of another, including family drivers, and workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority.

Section 3. BASIS OF MINIMUM WAGE. The minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day excluding rest day.

Section 4. PRODUCTIVITY BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement gain-sharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990."

Section 5. CREDITABLE WAGE INCREASE. All wage increases granted to workers within three (3) months prior to the effectivity of this Wage Order shall be credited as compliance with this Order. 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.

Section 6. 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 minimum wage rates per eight hours of work a day, or a proportion thereof for work less than eight (8) hours.

Section 7. WAGES OF SPECIAL GROUPS OF WORKERS. Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in this Order. All qualified handicapped workers shall receive the full amount of increase in this Order pursuant to RA 7277.

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 new prescribed wage rates.

Section 8. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase of tuition fees for school year 2005-2006 shall be considered as compliance with the increases prescribed herein. However, payment of any shortfall in the allowance set forth herein shall be covered starting school year 2006-2007.

Private educational institutions which have not increased their tuition fees for school year 2005-2006 may differ compliance with the provisions of this Wage Order until the beginning of school year 2006-2007. In any case, all private educational institutions shall implement the increase prescribed herein starting school year 2006-2007.

Section 9. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects, security, janitorial and similar services, the prescribed increases in the wage rates 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, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 10. APPLICATION TO SECTORS AND SUBSECTORS WHOSE REVENUES ARE REGULATED BY LAW AND OTHER APPROPRIATE GOVERNMENT ENTITIES. Entities whose revenues are subject to government regulation shall be required to comply with this Wage Order effective upon approval of the adjustment in their rates but not later than six (6) months from the effectivity thereof, provided, that establishments granted rate adjustments by appropriate agencies during the three (3) month period immediately preceding this Wage Order shall comply with the minimum wage mandated herein on the date this Wage Order takes effect.

Section 11. EXEMPTIONS. Upon applications with and as determined by the Board in accordance with applicable rules and regulations issued by the National Wages and Productivity Commission, the following maybe exempted from the applicability of this Wage Order:

- a.) Retail/Service establishment employing not more than ten (10) workers;
- b.) Distressed establishment;
- c.) New business enterprises (NBEs);
- d.) Establishments adversely affected by natural calamities.

Section 12. EFFECT OF APPLICATION FOR EXEMPTION. An application for exemption duly filed shall have the effect of deferring any action in any complaint for non-compliance with the Order until resolution of the application by the Regional Board.

In case the application for exemption is not approved, covered employees/workers of the applicant-establishment shall be paid the mandated wage increase under this Wage Order plus one percent (1%) interest per month retroactive to the effectivity of this Wage Order.

Section 13. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal with the commission through the Board within ten (10) calendar days from the publication of this Order.

The filing of the 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 of the corresponding increase to the employees affected by the Order in the event such Order is affirmed.

Section 14. EFFECTS ON EXISTING WAGE STRUCTURE OR WAGE DISTORTION. Where the application of the increase 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 15. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Wage Order shall be filed before the Regional Office of the Department of Labor and Employment (DOLE) or any of its Provincial Extension Offices and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which maybe undertaken against those who fail to comply.

Section 16. NON-DIMINUTION OF BENEFITS. Nothing in this Wage Order shall be construed to reduce any existing wage rates, allowances and benefits in any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 17. PENAL PROVISION. Any person, entity or employer who refuses or fails to pay the prescribed minimum wage in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

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 proceedings before the Board.

Section 19. 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 20. 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.

Section 21. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 22. IMPLEMENTING RULES. The Board shall prepare the necessary rules to implement this Wage Order subject to the approval of the Secretary of Labor and Employment.

Section 23 . EFFECTIVITY. This Wage Order shall take effect fifteen days after publication in a newspaper of general circulation in the region.

APPROVED, May 31, 2005, Cagayan de Oro City, Philippines.

(SGD) **ARSENIO L. SEBASTIAN III**
Management Representative

(SGD) **FLORENCIA P. CABATINGAN**
Labor Representative

(SGD) **PRUDENCIO T. PLAZA, JR.**
Labor Representative

(SGD) **LORENZO C. TONGCO**
Management Representative

(SGD) **CASIMIRA V. ALANDRA**
Vice-Chairman, NEDA-X

(SGD) **LINDA O. BONIAO**
Vice-Chairman, DTI-X

(SGD) **PONCIANO M. LIGUTOM**
Chairman, RTWPB-X
Regional Director, DOLE-X

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region 10, Northern Mindanao

**RULES IMPLEMENTING WAGE ORDER NO. RX-11
PROVIDING NEW MINIMU 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. This Rules shall be known as the Rules Implementing Wage Order No. RX-11.

Section 2. DEFINITION OF TERMS.

- a) Order refers to Wage Order No. RX-11;
- 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, 13th 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 application of the prescribed wage increase 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;
- 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-11 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) Roamploow 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 than 50% weeds;
- 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-canés;

Section 3. AREA CLASSIFICATION. For purposes of the prescribed minimum wage in this Wage Order, the areas in Region 10 are grouped, 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. The New Wage Rates. Effective 17 June 2005, all workers and employees in the private sector in Region 10 receiving the minimum wage shall be entitled to a cost of living allowance of Sixteen Pesos (P16.00) per day.

The new minimum daily wage rates of covered workers and employees in the private sector in Region X shall be as follows:

Classification	Non-Agriculture			Agriculture		
	Basic	COLA	Total	Basic	COLA	Total
Category I	P202.00	16.00	218.00	P192.00	16.00	208.00

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Section 2. COVERAGE. The cost of living allowance prescribed herein shall apply to all minimum wage earners in the private sector in the region regardless of their position, designation or status and irrespective of the method by which their wages are paid.

This Wage Order shall not cover household or domestic helpers and persons in the personal service of another including family drivers and workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority.

Section 3. 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 4. PRODUCTIVITY BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are encouraged to adopt productivity improvement schemes such as ISTIV, time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement gain-sharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990."

Section 5. 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-11 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 compliance of the previous wage orders, anniversary wage increases, merit increases and those resulting from the regularization or promotion of employee.

Section 6. 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 but not later than six (6) months from the effectivity thereof, provided that establishments granted rate adjustments by appropriate agencies during the three (3) month period immediately preceding this Wage Order shall comply with the minimum wage mandated herein on the date this Wage Order takes effect.

Section 7. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase of tuition fees for school year 2005-2006 shall be considered as compliance with the increases prescribed herein. However, payment of any shortfall in the allowance set forth herein shall be covered starting school year 2006-2007.

Private educational institutions which have not increased their tuition fees for school year 2005-2006 may defer compliance with the provisions of this Wage Order until the beginning of school year 2006-2007. In any case, all private educational institutions shall implement the increase prescribed herein starting school year 2006-2007.

Section 8. 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 failed 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 9. 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 (AMW) rates for workers paid by results shall be computed in accordance with the following steps:

a.
$$\frac{\text{Amount of increase in AMW}}{\text{Previous AMW}} \times 10 = \% \text{ increases}$$

- 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.

For agricultural Workers in the Sugar Industry in Region X, the applicable new "Pakyaw Rates", regardless of geographical location, are as follows:

ACTIVITY	RATE
A. LAND PREPARATION AND CULTIVATION	
1. Roamplow	P 302.00/ha.
a. Moldboard-labor component	
b. Animal Plowing	P 201.00/day
b.1 Owned by planter	
b.2 Owned by worker excluding premium rate of animal	
* Normal soil	P 1,315.00/ha.
* Coarse and Hilly	P 2,364.00/ha.
2. Harrowing (Karas) - labor Component	P 59.00/ha.
3. Planting basal including Peeling	P 591.00/lacsa
4. Hauling cane points	
a. Loading only	P 78.00/lacsa
b. Loading & Unloading	P 130.00/lacsa
5. Cutting cane points	
a. Sinsillo	P 393.00/lacsa
b. Gupod	P 328.00/lacsa
6. Peeling	P 130.00/lacsa
7. Cutting cane points with peeling	P 657.00/lacsa
8. Fertilizing	
a. Tagad	P 52.00/bag
b. Bubod	P 42.00/bag
9. Weeding	
a. High density	P 1,315.00/ha
b. Medium density	P 788.00/ha.
c. Low density	P 526.00/ha.
10. Hilling-up (1 meter distance between rows)	P 201.00/pass /hectare
11. Harvesting (cutting and loading zero trash)	P 130.00/ton
B. RATOON	
1. Peeling and replanting	P 657.00/lacsa
2. Trash scattering, burning and cutting stump	P 526.00/ha.

Section 10. WAGES OF SPECIAL GROUPS OF WORKERS. Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in this 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.

All qualified handicapped workers shall receive the full amount of increase in this Order pursuant to RA 7277.

Section 11. SUGGESTED FORMULAE 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:

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

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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{ADR} \times 365 \text{ days}}{12}$$

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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{ADR} \times 314 \text{ days}}{12}$$

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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{ADR} \times 262 \text{ days}}{12}$$

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 - 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:

$$\text{Equivalent Monthly Rate (EMR)} = \text{EMR} = \frac{\text{ADR} \times 365 \text{ days}}{12}$$

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:

$$\text{Equivalent Monthly Rate (EMR)} = \text{EMR} = \frac{\text{ADR} \times 314 \text{ days}}{12}$$

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 is equivalent to 3.90 days)
 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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{ADR} \times 262 \text{ days}}{12}$$

Where 262 days:

244 days - Ordinary working days
 11 days - Regular holidays
 4 days - Muslim Legal holidays
3 days - 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 do not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

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

Section 13. 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 14. 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.

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. CRITERIA FOR EXEMPTION. The criteria for the herein exemptible categories shall be in accordance with the NWPC's Rules on Exemption.

Section 3. APPLICATION FOR EXEMPTION. Not later than SEVENTY-FIVE (75) days from the date of publication of this 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. 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 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.

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 4. SUPPORTING DOCUMENTS. In addition to the above requirements, 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 thenotes 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 notesthereto) 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. Principal economic activity;
- b. Date of registration with appropriate agency;
- 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 5. 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.

An establishment granted with an exemption shall continue to be exempted from the current wage order within the period of exemption only, with the option to apply for exemption from the succeeding wage order in accordance with the applicable rules and regulations.

A partial exemption of 50% with respect to the amount or period of exemption may 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 6. 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 7. 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 8. 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 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 - P230.00
Current minimum wage - 202.00
Mandated wage increase - 16.00

$$\begin{aligned}
 \text{Wage Distortion Adjustment} &= \frac{\text{Current minimum wage}}{\text{Current Wage of employee}} \times \text{Wage increase} \\
 &= \frac{\text{P } 202.00}{\text{P } 230.00} \times \text{P } 16.00 = \text{P } 14.00
 \end{aligned}$$

$$\text{Adjusted Wage} = \text{P } 230.00 + \text{P } 14.00 = \text{P } 244.00$$

Section 2. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having 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 the 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 REQUIREMENTS. 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 31 January 2006 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 this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 11. EFFECTIVITY. This Rules shall take effect on 17 June 2005.

APPROVED, 8 June 2005, Cagayan de Oro City, Philippines.

(SGD) **ARSENIO L. SEBASTIAN III**
Management Representative

(SGD) **FLORENCIA P. CABATINGAN**
Labor Representative

(SGD) **PRUDENCIO T. PLAZA, JR.**
Labor Representative

(SGD) **LORENZO C. TONGCO**
Management Representative

(SGD) **CASIMIRA V. ALANDRA**
Vice-Chairman, NEDA-X

(SGD) **LINDA O. BONIAO**
Vice-Chairman, DTI-X

(SGD) **PONCIANO M. LIGUTOM**
Chairman, RTWPB-X
Regional Director, DOLE-X

APPROVED: this 14th day of July 2005.

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