

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Northern Mindanao, Region X
Cagayan de Oro City

WAGE ORDER NO. RX-03

PROVIDING FOR A MINIMUM WAGE ADJUSTMENT AND
COST OF LIVING ALLOWANCE

WHEREAS, since the effectivity of RA 6727, the purchasing power of the peso has been eroded inspite of the wage increase given under Wage Order RX-01 and RX-01-A in 1990 and the three month allowance granted under RX-02 in 1991;

WHEREAS, it is necessary to provide workers and their families with immediate relief measures to enable them to cope with the rising cost of living without impairing the viability of business and industry;

WHEREAS, The Board has taken cognizance of t he plight of the workers under prevailing conditions and the need to restore their purchasing power to the level of 1989;

WHEREAS, Republic Act 6727, otherwise known as the Wage Rationalization Act, empowers the Regional Tripartite Wages and Productivity Board to determine and fix minimum wage rates applicable in the region, its provinces and industries, and to issue the corresponding Wage Orders, subject to guidelines issued by the National Wages and Productivity Commission;

NOW THEREFORE, by virtue of the powers and authority vested under Republic Act No. 6727, the Regional Tripartite Wages and Productivity Board of Northern Mindanao (Region X) hereby issues this Wage Order:

SECTION 1. Upon the effectivity of this Wage Order, all workers and employees in the private sector in Region X receiving a daily of not more than One Hundred Thirty Pesos (P 130.00) per day shall receive the following:

- a. Seven Pesos (P 7.00) increase in minimum daily wage rate;
- b. Ten Pesos (P10.00) allowance per day, provided that such allowance shall be reviewed by the Board after one (1) year from effectivity of this Wage Order.

SECTION 2. Industries whose revenues are regulated by law shall be required to comply with the Wage Order effective upon approval of an adjustment in their rates by the concerned government agency but not later than six (6) months from the effectivity hereof.

Provided that establishments granted rate adjustments by the appropriate government agency during the three (3) month period immediately preceding the issuance of this Wage Order shall comply with the minimum wage adjustments contained herein on the date this Wage Order takes effect.

Provided further that in the case of educational institutions, compliance shall be mandatory effective school year 1994-1995.

SECTION 3. Exempted from the provision of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Likewise exempted from the payment of the new minimum wage rate and allowances are workers and employees of new business enterprises and/or CBBE-registered businesses in Northern Mindanao (Region X) which were given exemptions under RA 6727, Wage Order RX-01 and RX-01-A, until the expiry of their exemptions.

New businesses which may be established in Northern Mindanao (Region X) whose assets after financing does not exceed FIVE MILLION PESOS (P 5,000,000.00) may also be granted an exemption from compliance with this Wage Order upon application with, and as determined by the Board in accordance with applicable rules and regulations issued by the Commission.

Distressed establishments, as defined by the Board upon due and proper application with the Board, may also be exempted either partly or fully for a period of one year renewable for another year provided the conditions still persist and warrant the exemption, provided further that they qualify under the implementing guidelines issued by the Board.

Establishments whose employees' wage rates are over and above the minimum wage rates prescribed by this Wage Order, are exempted from compliance of this Order. This shall be without prejudice on the part of employers from taking cognizance of the reasons for the issuance of this Wage Order as a basis for representatives of labor and management to explore possibilities of wage improvement through the process of voluntary negotiation or collective bargaining. Provided that all such undertaking must be resolved within a period of six (6) months otherwise, the same shall be resolved through Voluntary Arbitration.

In the event that applications for exemptions are not granted, employees shall receive the appropriate wage rate adjustments due them as provided for in this Wage Order plus interest of one percent (1%) per month retroactive to the date of effectivity of this Wage Order.

Also exempted from the payment of the minimum wage rate adjustments upon filing of an application for exemption are the following:

- a. Retail and/or service establishments employing less than 20;
- b. Hospitals whose bed capacities are 50 beds or classified as primary or secondary;
- c. Non-stock non-profit institutions whose only source of income are donations;
- d. Labor intensive establishments; and
- e. Agricultural non-plantation.

Section 4. In the case of contract for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates and allowances for covered workers shall be borne by the principals or clients of the construction and/or 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 and/or service contractor shall be jointly and severally liable with the principal or client.

Section 5. All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the prescribed minimum wage rate and/or allowance under this Wage Order for the normal eight (8) working hours work a day, or a proportion thereof for work or less than the normal working hours.

Section 6. Wage increase and allowances effective July, 1993 up to the effectivity of this Wage Order shall be credited as compliance with this minimum wage and allowance increase prescribed under this Wage Order. Provided that where such increases are less than the prescribed adjustment the employer shall pay the difference. Such increases shall not include company anniversary and merit increases and those resulting from regularization or promotion of employees.

Section 7. The change in the minimum wage rate and allowances prescribed in this Wage Order shall not be a ground to renegotiate any existing collective bargaining agreement except where there is

an expressed provision in the CBA on wage reopening as a result of the issuance of a Wage Order, as mutually agreed upon by the parties.

Section 8. Employers are advised to grant voluntarily the necessary adjustment or increase in their daily minimum wage rate. Wage distortions as a result of this Wage Order are to be resolved within THREE (3) MONTHS upon effectivity of this Wage Order.

Section 9. Any employer who refuses or fails to pay the minimum wage and/or allowances provided under this Wage Order shall be subject to the penalties specified under existing labor laws and issuances.

Section 10. The Board shall prepare the necessary rules and regulations to implement this Wage Order, subject to the approval of the Secretary of Labor and Employment.

Section 11. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rates, allowance or other benefits under existing laws, decrees, issuances, executive order and/or under any contract or agreement between workers and employers or employers practices and policies.

Section 12. This Wage Order shall take effect fifteen (15) days after publication in at least one (1) newspaper of general circulation in this region.

Approved November 19, 1993 .

(SGD) MR. DEMETRIO S. SUSON
Labors' Representative

(SGD) MR. ARSENIO L. SEBASTIAN III
Employers' Representative

Refused to sign
MRS. FLORENCIA P. CABATINGAN
Labors' Representative

(SGD) MR. PRUDENCIO T. PLAZA, JR.
Employers' Representative

(SGD) DIR. NINFA A. ALBANIA
Vice Chairman

(SGD) DIR. RAYMUNDO E. FONOLLERA
Vice Chairman

(SGD) DIR. PEDRITO J. SUSI
Chairman

Republic of the Philippines
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Northern Mindanao, Region X

RULES IMPLEMENTING WAGE ORDER NO. RX-03

Pursuant to Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing, and to 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:

CHAPTER 1 - DEFINITION OF TERMS

SECTION 1. Definition of Terms - As used in this Rules,

- a) "Act" means Republic Act No. 6727;
- b) "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 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, aquatic or other farm products;
- c) "Basic Wage" means all remuneration or earnings paid by an employer to a worker for services rendered on normal working 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 on the date this Wage Order becomes effective;
- d) "Board" refers to the Regional Tripartite Wages and Productivity Board of Region X;
- e) "Commission" refers to the National Wages and Productivity Commission;
- f) "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 whose capitalization does not exceed One Million (P 1,000,000.00) Pesos;
- g) "Countryside and Barangay Business Enterprises (CBBE)" are business establishments which are established under Republic Act 6810 otherwise known as "Kalakalan 20";
- h) "Department" refers to the Department of Labor and Employment;
- i) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in section 3 of NWPC Guidelines No. 01, series of 1992, as follows:
 1. In the case of a stock corporation, partnership, single proprietorship, non-stock, non-profit organization or cooperative engaged in a business activity or charging fees for its services -
 - 1.1 When accumulated losses for the last two (2) full accounting periods and interim period, if any, immediately preceding the effectivity of the Order have impaired by at least 25% percent the:

- Paid-up capital at the end of the last full accounting period preceding the effectivity of the Order, in the case of corporations;
- Total invested capital at the beginning of the last full accounting period preceding the effectivity of the Order in the case of partnerships and single proprietorships.

1.1.1 Establishments operating for less than two (2) years may be granted exemption when accumulated losses for said period have impaired by at least 25% the paid-up capital or total invested capital, as the case may be.

1.2 When an establishment registers capital deficiency i.e., negative net worth as of the last two (2) full accounting periods preceding the effectivity of the Order.

2. In the case of non-stock, non-profit organizations that do not charge fees for services rendered and whose revenues are derived primarily from donations and contributions when such revenues during the year preceding the effectivity of the Order have declined by at least 10% percent from previous year.

- j) "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location.

For purposes of determining eligibility for exemption, establishments under the same owner/s but separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperatives Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.

- k) "Labor-intensive Establishment" is one which has a Labor Cost ratio equal to or more than 30% of production cost and/or employs a ratio of one worker per ₱ 100,000 capitalization.
- l) "Minimum Wage Rates" refer to the lowest wage rates that an employer can pay his workers, as fixed by the Board, and which shall not be lower than the applicable statutory minimum wage rates;
- m) "New Business Enterprises" refer to enterprise and non - profit institutions, newly registered with the appropriate government agency such as the SEC, DTI, Cooperatives Development Authority and mayor's office within the period July 1989 to June 30, 1993 and those that will be established within one (1) year from the effectivity of this Order.
- n) "Order" means Wage Order No. RX-03;
- o) "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as "Non-plantation Agricultural Enterprise";
- p) "Region X" covers the provinces of Agusan del Norte, Agusan del Sur, Bukidnon, Camiguin, Misamis Occidental, Misamis Oriental, Surigao del Norte and the cities of Butuan, Cagayan de Oro, Gingoog, Oroquieta, Ozamiz, Surigao and Tangub;
- q) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use.

A retail establishment that regularly engages in wholesale activities loses its retail character.

- r) "Service Establishment" is one principally engaged in the sale of service to individuals for their own or household use and generally recognized as such;
- s) "Statutory Minimum Wage" is the lowest wage rate fixed by law that an employer can pay his workers;
- t) "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;
- u) "Workers and Employees" - means those employed in the private sector.

CHAPTER II - MINIMUM DAILY WAGE INCREASE

Section 1. Coverage - The wage increase of seven pesos (₱ 7.00) per day prescribed under this Wage Order shall apply to all workers and employees in the private sector in Region X receiving a basic wage of not more than ONE HUNDRED THIRTY PESOS (P130.00) per day or its monthly equivalent, regardless of their position, designation or status, and irrespective of the method by which their wages are paid. Exempted from the provisions of this Order are:

- a. Household or domestic helpers, and persons in the personal service of another, including family drivers;
- b. Retail/service establishments regularly employing not more than 10 employees;
- c. Distressed establishments as defined by the Board, after proper application with, and effective upon approval by the Board, provided they qualify for exemption;
- d. Agricultural establishments which are non-plantation;
- e. New businesses and/or CBBE-registered establishments in Region X which were previously granted exemptions under RA 6727, Wage Order RX-01 and RX-01-A until the expiry of their exemptions;
- f. Hospitals with a bed capacity of not more than 50 beds or classified as primary or secondary hospitals by the Department of Health;
- g. Non-stock, non-profit institutions whose only source of income are donations;
- h. Labor intensive establishments as herein defined by the Board;
- i. Establishments whose wage rates are over ONE HUNDRED THIRTY PESOS (P130.00) per day per worker, on the date of effectivity of this Wage Order; and
- j. New businesses which may be established in Northern Mindanao whose assets after financing does not exceed FIVE MILLION PESOS (P 5,000,000.00) upon proper application and when exempted from compliance with the Order for a period fixed by the Board in accordance with applicable rules and regulations issued by the Commission.

Section 2. AMOUNT OF MINIMUM WAGE INCREASE - All workers and employees covered in Sec. 1 hereof receiving a daily rate of not more than ONE HUNDRED THIRTY PESOS (P 130.00) shall receive a wage increase of SEVEN PESOS (P 7.00) per day.

Section 3. DAILY MINIMUM WAGE RATES.

- a) Upon effectivity of this Wage Order, the daily minimum wage rates of workers and employees in Region X shall be as follows:

	Under RA 6727 Effective June 1989	Under WO No. RX-01 Effective 22 Nov. '90	Under Wage Order No. RX-03 Effective 8 Dec. 1993	
			Wage Adjustment	COLA
A. The Provinces of Agusan del Norte, Bukidnon, Misamis Oriental and the cities of Butuan, Cagayan de Oro and Gingoog				
Non-Agricultural	89.00	102.00	109.00	10.00
Agricultural				
Plantation with annual gross sales of P5M or more	79.00	92.00	99.00	10.00
Plantation with annual gross sales of less than P5M	74.00	87.00	94.00	10.00
Non-Plantation	58.50	71.50	78.50	10.00
Cottage/handicrafts				
Employing more than 30 workers	67.00	80.00	87.00	10.00
Employing not more than 30 workers	65.00	78.00	85.00	10.00
Private Hospitals with less than 50 bed capacity as classified as primary or secondary hospitals	75.00	88.00	95.00	10.00
Private Hospitals with more than 50 bed capacity or classified as tertiary hospitals	85.00	98.00	105.00	10.00
Retail /Service				
Employing more than 15 workers	89.00	102.00	109.00	10.00
Employing 11 to 15 workers	85.00	98.00	105.00	10.00
Employing not more than 10 workers	58.00	71.00	78.00	10.00
Municipalities and Cities with Population of not more than 150,000				
Employing more than 10 workers	85.00	98.00	105.00	10.00
Employing not more than 10 workers	58.00	71.00	78.00	10.00
Sugar Mills	91.00	104.00	111.00	10.00
Agriculture				
Plantation with annual gross sales P5M or more	73.50	86.50	93.50	10.00
Plantation with annual gross sales of less than P5M	68.50	81.50	88.50	10.00
Non-Plantation	58.50	71.50	78.50	10.00
Business Enterprises with Capitalization of not more than P500,000 and not more than 20 workers				
Non-Agriculture	79.00	92.00	99.00	10.00
Agricultural Plantation				
Products other than sugar	69.00	82.00	89.00	10.00
Sugar	63.50	76.50	83.50	10.00

	Under RA 6727 Effective June 1989	Under WO No. RX- 01 Effective 22 Nov. '90	Under Wage Order No. RX-03 Effective 8 Dec. 1993	
			Wage Adjustment	COLA
B. The Provinces of Agusan del Sur, Misamis Occ., Surigao del Norte and the cities of Oroquieta, Ozamiz, Surigao and Tangub				
Non-Agricultural	89.00	100.00	107.00	10.00
Agricultural				
Plantation with annual gross sales of P5M or more	79.00	90.00	97.00	10.00
Plantation with annual gross sales of less than P5M	74.00	85.00	92.00	10.00
Non-Plantation	58.50	69.50	76.50	10.00
Cottage/handicrafts				
Employing more than 30 workers	67.00	78.00	85.00	10.00
Employing not more than 30 workers	65.00	76.00	83.00	10.00
Private Hospitals with less than 50 bed capacity or classified as primary or secondary hospitals	75.00	86.00	93.00	10.00
Private Hospitals with more than 50 bed capacity or classified as tertiary hospitals	85.00	96.00	103.00	10.00
Retail /Service				
Employing more than 15 workers	89.00	100.00	107.00	10.00
Employing 11 to 15 workers	85.00	96.00	103.00	10.00
Employing not more than 10 workers	58.00	69.00	76.00	10.00
Municipalities and Cities with Population of not more than 150,000				
Employing more than 10 workers	85.00	96.00	103.00	10.00
Employing not more than 10 workers	58.00	69.00	76.00	10.00
Sugar Mills	91.00	102.00	109.00	10.00
Agriculture				
Plantation with annual gross sales P5M or more	73.50	84.50	91.50	10.00
Plantation with annual gross sales of less than P5M	68.50	79.50	86.50	10.00
Non-Plantation	58.50	69.50	76.50	10.00
Business Enterprises with Capitalization of not more than P500,000 and not employing more than 20 workers				
Non-Agriculture	79.00	90.00	97.00	10.00
Agricultural Plantation				
Products other than sugar	69.00	80.00	87.00	10.00
Sugar	63.50	74.50	81.50	10.00

	Under RA 6727 Effective June 1989	Under WO No. RX- 01 Effective 22 Nov. '90	Under Wage Order No. RX-03 Effective 8 Dec. 1993	
			Wage Adjustmen t	COLA
C. The Provinces of Camiguin				
Non-Agricultural	89.00	98.00	105.00	10.00
Agricultural				
Plantation with annual gross sales of P5M or more	79.00	89.00	95.00	10.00
Plantation with annual gross sales of less than P5M	74.00	83.00	90.00	10.00
Non-Plantation	58.50	67.50	74.50	10.00
Cottage/handicrafts				
Employing more than 30 workers	67.00	76.00	83.00	10.00
Employing not more than 30 workers	65.00	74.00	81.00	10.00
Private Hospitals with more than 50 capacity or classified as tertiary hospitals	85.00	94.00	101.00	10.00
Private Hospitals with less than 50 capacity or classified as tertiary hospitals	75.00	84.00	91.00	10.00
Retail /Service				
Employing more than 15 workers	89.00	98.00	105.00	10.00
Employing 11 to 15 workers	85.00	94.00	101.00	10.00
Employing not more than 10 workers	58.00	67.00	74.00	10.00
Municipalities and Cities with Population of not more than 150,000				
Employing more than 10 workers	85.00	94.00	101.00	10.00
Employing not more than 10 workers	58.00	67.00	74.00	10.00
Sugar Mills	91.00	100.00	107.00	10.00
Agriculture				
Plantation with annual gross sales P5M or more	73.50	82.50	89.50	10.00
Plantation with annual gross sales of less than P5M	68.50	77.50	84.50	10.00
Non-Plantation	58.50	67.50	74.50	10.00
Business Enterprises with Capitalization of not more than P500,000 and not employing more than 20 workers				
Non-Agriculture	79.00	88.00	95.00	10.00
Agricultural Plantation				
Products other than sugar	69.00	78.00	85.00	10.00
Sugar	63.50	72.50	79.50	10.00

b. Without prejudice to existing company practices, agreements or policies, the suggested formula herein attached as Annex "A" may be used as guide in determining the equivalent monthly minimum wage rates.

Section 4. BASIS OF THE MINIMUM WAGE RATES - The minimum wage rates prescribed under this Wage Order shall be for the normal working hours not exceeding eight hours a day.

CHAPTER III - COST OF LIVING ALLOWANCE

Section 1. COVERAGE - The Cost of Living Allowance prescribed under this Wage Order shall apply to all workers and employees in Region X, receiving a daily wage of not more than ONE HUNDRED THIRTY PESOS (P 130.00), regardless of their position, designation or status, place of work or assignment in Region X and irrespective of the method by which their wages are paid.

Section 2. AMOUNT OF COST OF LIVING ALLOWANCE AND MANNER OF PAYMENT - Upon effectivity of this Wage Order, all covered workers and employees in Region X shall be paid TEN PESOS (P 10.00) per day Cost of Living Allowance (COLA). Such COLA shall be paid together with the regular payroll of employees and workers but not later than fifteen (15) days interval.

Section 3. ALLOWANCES OF FULL - TIME AND PART - TIME EMPLOYEES - Full-time employees shall be paid the Cost of Living Allowance for every day that they are paid the basic wage.

In the case of part-time employees, the allowance to be paid shall be proportionate to the time worked by the employee. This requirement shall apply to any employee with more than one employer.

Section 4. LEAVE OF ABSENCE WITH PAY - All covered employees shall be entitled to the Cost of Living Allowance provided herein when they are on leave of absence with pay.

Section 5. RELATION TO SOCIAL SECURITY AND WORKMENS' COMPENSATION - An employee who is receiving workmens' compensation and/or social security benefits in lieu of wages is entitled to the Cost of Living Allowance to the extent of such compensation or benefit.

CHAPTER IV - COMMON AND OTHER PROVISIONS

Section 1. Creditable Increase - Any Wage increase and allowance granted from July 1, 1993 up to the effectivity of this Wage Order shall be credited as compliance thereof, provided that where such increases are less than the prescribed adjustment, the employer shall pay the difference. Such increases shall not include company anniversary and merit increases and those resulting from regularization or promotion of employees.

Section 2. Effects on Collective Bargaining Agreements - The change or increase in the minimum wage rates prescribed in this Order shall not be a ground to renegotiate any existing collective bargaining agreement, except where there is an expressed provision in said CBA on wage reopening as a result of an issuance of a Wage Order, or as mutually agreed upon by the parties.

Section 3. Workers Paid by Results

3.1 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 and COLA prescribed under the Order for the normal working hours a day, or a proportion thereof for work less than the normal working hours.

The new applicable minimum wage rate for workers paid by results shall be computed in accordance with the following steps:

- a) $\frac{\text{Amount of Increase in Applicable Minimum Wage (AMW)} + \text{COLA} \times 100}{\text{Previous AMW}} = \% \text{ Increase}$
- b) Existing rate/piece \times % Increase = increase in rate/piece
- c) Existing rate/piece + increase in rate/piece = adjusted rate/piece;

3.2 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 4. 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 provided in the Order.

All recognized learnership and apprenticeship agreements entered into before December 8, 1993 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increase prescribed under this Order.

Section 5. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase and cost of living allowance 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 or client.

Section 6. Application to Private Educational Institutions. Private educational institutions shall be required to comply with the wage increase and cost of living allowance prescribed under this Order effective School Year 1994-1995, provided that they shall immediately comply with this Order in case an increase in the tuition fee was granted them during the 3-month period immediately preceding the effectivity of this Order.

Section 7. Compliance of Establishments whose Rates are Regulated by Law. Employers of businesses, industries or utilities whose rates are regulated by law which have been granted rate adjustments by the appropriate government agency during the three (3) month period immediately preceding the issuance of Wage Order RX-03 shall be required to pay their workers and employees the minimum wage increase and cost of living allowance prescribed herein immediately upon the effectivity of Wage Order RX-03. Upon approval of an adjustment in their rates or tariffs by the concerned government agency, but not later than six (6) months from the effectivity of Wage Order RX-03, industries whose revenues are regulated by law shall be required to comply with this Wage Order.

Section 8. 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 the nearest branch office of the employer.

The minimum wage rate of workers working in branches or agencies of establishments within the region or outside the region shall be those applicable in the place where they are stationed.

Section 9. Transfer of Personnel. The transfer of personnel from one province to another shall not be a valid ground for the reduction of the wage rate being enjoyed by the worker prior to such transfer.

Section 10. Exemptions. Employers falling under Section 1 Chapter II of this Rules may apply for exemption from compliance with the minimum wage increase prescribed under the Order.

Applications for exemptions, in two (2) typewritten copies, must be under oath. Such must be filed by the duly authorized representative of an establishment, in person or by registered mail, with the Board or through the nearest office of the Department of Labor and Employment in the region and must be accompanied by complete supporting documents; otherwise the application shall be dismissed upon failure of the establishment to submit complete documents within ten (10) days from receipt of notice of the deficiencies.

In the case of new business enterprises (NBEs) application shall be filed not later than sixty (60) days from date of start of operation. The date of mailing shall be deemed as the date of filing.

Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with this Order shall be deferred pending resolution by the Board of said application. The Board shall have the option whether to grant full or partial exemption to such applicant establishment with respect to the amount and/or period covered.

In the event that the application for exemption is not granted, the workers and employees shall receive the appropriate adjustment due them as provided for under this Order plus interest of one percent (1%) per month retroactive to the date of effectivity of this Order.

The following supporting documents shall be submitted together with the application:

For All Categories of Exemption:

- a. Proof of notice of filing of the application to the President of the union/contracting party if one is organized in the establishment, or if there is no union, a copy of a circular giving general notice of the filing of the application to all the workers in the establishment. 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 posted in a conspicuous place in the establishment.

For Retail/Service Establishments Employing not more than Ten (10) Workers:

- b. Affidavit from the employer regarding the following:
 1. Principal economic activity
 2. Number of employees
- c. Business Permit for the current year from the Office of the City/Municipal Mayor, or SEC or DTI or CBA registration.

For New Business Enterprises:

- b. Affidavit from the employer regarding the following:
 - 1) Principal economic activity
 - 2) Date of Start of operations
 - 3) Number of employees
 - 4) Amount of total assets

- c. Business Permit for the current year from the Office of the City/Municipal Mayor, or SEC or DTI or CBA registration.

For Distressed Establishments:

- b. Available audited financial statements (together with the notes thereto) for the last two (2) full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the BIR and SEC
- c. Interim quarterly financial statements (together with the notes thereto) for the period immediately preceding the effectivity of the Order
- d. Income tax returns for the last two (2) taxable periods filed with and stamped "received" by the BIR
- e. Quarterly income tax returns for the period immediately preceding the effectivity of the Order filed with and stamped "received" by the BIR

For non-stock, non-profit organizations that do not charge fees for services rendered and whose revenues are derived primarily from donations, item b and d only.

For Countryside and Barangay Business Enterprises:

- b. CBBE Authority issued by the local municipality or city.

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

Section 11. Effects on Existing Wage Structure. Where the application of the prescribed minimum wage increase under this Order results in distortion in the wage structure within an establishment, such distortion shall be negotiated for correction by the recognized union and the management in the case of unionized labor, and the representatives of the workers and employees in the case of unorganized establishments, provided further that in any wage adjustments arising therefrom, viability of the establishment shall be considered.

Any dispute arising from wage distortion shall be resolved 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) calendar 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 the wage distortion. 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, it 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 a wage distortion shall not in any way delay the applicability of the wage increase prescribed under the Order and Supplemental Orders if there be any.

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

Section 12. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase prescribed under this Order shall be filed with the nearest office of the Department in the region and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 13. Non-Diminution of Benefits. Nothing in the Order, and this Rules shall be construed as authorizing the reduction of 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 employers or employer practices or policies.

Section 14. Penal Provision. Any employer who fails to pay the prescribed increase under the Order shall be subject to the penalties specified under existing labor laws and issuances.

If the violation is committed by a corporation, 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 15. 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 Board.

Section 16. Registration/Reporting Requirement. Any person, company, corporation, partnership or any other entity covered by the Order shall submit to the Board and the National Statistics Office, not later than January 31 each year, beginning Calendar Year 1994, a verified itemized listing of their workers/employees below managerial level, including learners, apprentices and disabled/handicapped workers using the form prescribed by the Commission, hereto attached as Annex "B".

Section 17. Effects 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 and this Rules shall continue to have full force and effect, and shall have suppletory effect, as deemed necessary.

Section 18. Payment of Wages. Upon written petition of the majority of the workers and employees concerned, all private establishments, companies, business and other entities with at least twenty-five (25) workers and located within one kilometer radius to a commercial, savings or rural bank, shall pay the wages and other benefits of their workers through any said banks, within the period and in the manner prescribed under the Labor Code as amended.

Section 19. Duty of Bank. Whenever applicable and upon request of a concerned worker or union, the bank through which wages and other benefits are paid shall issue a certification of the record of payment of said wages and benefits a particular worker or workers for a particular payroll period.

Section 20. Separability Clause. If any provision herein is held invalid or unconstitutional, any other provision shall continue to be valid and effective.

Section 21. Effectivity. This Rules shall take effect on December 8, 1993.

Done in Cagayan de Oro City, Republic of the Philippines, this 6th day of December, 1993.

FLORENCIA P. CABATINGAN
Workers' Sector Representative

(SGD) ARSENIO L. SEBASTIAN III
Employers' Sector Representative

I dissent Chapter 1, Section 1.k.
(SGD) DEMETRIO S. SUSON
Workers' Sector Representative

(SGD) PRUDENCIO T. PLAZA, JR.
Employers' Sector Representative

(SGD) NINFA A. ALBANIA
Vice-Chairman

(SGD) RAYMUNDO E. FONOLLERA
Vice-Chairman

(SGD) PEDRITO J. SUSI
Chairman

Approved this 30th day of March 1994.

(SGD) MA. NIEVES R. CONFESOR
Secretary
Department of Labor and Employment

1. *The Board shall issue supplemental guidelines on exemption, to be approved by the National Wages and Productivity Commission, covering non-plantation agricultural establishments, hospitals with bed capacity of not more than 50 beds or classified as primary or secondary hospitals by the DOH and labor intensive establishments.*
2. *The Wage Order was published on November 27, 1993. Hence, the effectivity of the Order and Rules shall be December 7, 1993.*

Annex "A"

SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY MINIMUM WAGE RATES

Without prejudice to existing company practices, agreements or policies, the following formula maybe, used as guides in determining the equivalent monthly statutory minimum wage rates.

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

$$\text{Equivalent Monthly Rate} = \frac{\text{ADR} \times 390.90 \text{ days}}{12} \quad 1/$$

Where 390.90 days =

302	days	=	Ordinary working days
20	days	=	10 Regular holidays X 200%
66.30	days	=	51 rest days X 130%

2/

<u>2.60</u>	days	=	2 special days X 130%
390.90	days	=	Total equivalent number of days.

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

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

Where 365 days =

302	days	=	Ordinary working days
51	days	=	Rest days
10	days	=	Regular holidays

2/

<u>2</u>	days	=	Special days
365	days	=	Total equivalent number of days

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

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

Where 314 days =

302	days	=	Ordinary working days
10	days	=	Regular holidays

2/

<u>2</u>	days	=	Special days (If considered paid; if actually worked, this is equivalent to 2.6 days)
314	days	=	Total equivalent number of days

1/ Includes premium for holidays, special days and rest days.

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

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

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

Where 262 days =

250 days = Ordinary working days

10 days = Regular holidays

2/

2 days = Special days (If considered paid; if actually worked, this is equivalent to
2.6 days)

262 days = Total equivalent number of days

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

Note : For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 days 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.

ANNEX "B"

Republic of the Philippines
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region X, Cagayan de Oro City

Pursuant to Wage Order No. RX-03 and Chapter IV, Section 16 of its Implementing Rules, any person, company, corporation, partnership or any entity shall submit to the appropriate board and the National Statistics Office, not later than January 31 each year, beginning calendar year 1991, a verified itemized listing of their workers/employees below managerial level, including learners, apprentices and disabled/handicapped workers.

NAME OF ESTABLISHMENT		ECONOMIC ACTIVITY/Principal Product	
ADDRESS		TOTAL EMPLOYMENT	
NAME OF UNION, if any	NO. OF UNION MEMBERS:	ARE WORKERS COVERED BY CBA?	NO. OF WORKERS
WORKERS/EMPLOYEES BELOW MANAGERIAL LEVEL			
EMPLOYEE'S NAME	STATUS OF EMPLOYMENT	BASIC WAGE/SALARY (Specify whether per day/wk/mo/pc)	Other Compensation Regularly Received (Specify amt & type of compensation)

* Regular, Temporary, Probationary, Contractual, Apprentices Learners, Seasonal, etc.
Please use additional sheets, if necessary

CERTIFICATION:

I hereby certify that the above information are true and correct.

EMPLOYER OR AUTHORIZED REPRESENTATIVE

POSITION

Date

Telephone Number

SUBSCRIBED AND SWORN TO BEFORE ME, this __ day of _____, 199_, employer exhibiting his/her Residence Certificate No. _____ issued at _____ on _____.

Administering Officer

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region X, Cagayan de Oro City

WAGE ORDER NO. RX-03-A

AMENDING SECTION 3 OF WAGE ORDER NO. RX-03

WHEREAS, Wage Order No. RX-03 provides, "also exempted from the payment of the minimum wage rate adjustments upon filing of an application for exemption are the following."

- a. Retail and Service establishments employing less than 20.

WHEREAS, Art. 122 of the Labor Code of the Philippines provides "the Regional Boards shall have the following powers and functions in their respective territorial jurisdiction: (b) To determine and fix minimum wage rates applicable in their regions, provinces or industries therein and to issue the corresponding wage orders subject to guidelines issued by the Commission."

WHEREAS, Revised NWPC guidelines No. 01 (series of 1992) provides exemptions for "Retail and Service establishments employing not more than ten (10) workers."

NOW THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, the Regional Tripartite Wages and Productivity Board of Northern Mindanao (Region X) hereby issues this Wage Order amending Section 3 (a) of Wage Order No. RX-03 to cover only Retail and Service establishments employing not more than ten (10) workers in conformity with the provisions of law.

This Wage Order shall take effect fifteen (15) days after publication in at least one (1) newspaper of general circulation in this region.

Approved February 15, 1994.

(SGD) DIR. NINFA A. ALBANIA
Vice Chairman

(SGD) DIR. RAYMUNDO E. FONOLLERA
Vice Chairman

(SGD) MRS. FLORENCIA P. CABATINGAN
Labor Representative

(SGD) MR. PRUDENCIO T. PLAZA, JR.
Employers' Representative

(SGD) MR. DEMETRIO S. SUSON
Labor Representative

(SGD) MR. ARSENIO L. SEBASTIAN III
Employers' Representative

(SGD) DIR. PEDRITO J. SUSI
Chairman

Republic of the Philippines
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Northern Mindanao, Region X
Cagayan de Oro City

RTWPB X GUIDELINES NO. 1
Series of 1994

SUPPLEMENTAL GUIDELINES IMPLEMENTING RTWPB X
WAGE ORDER NO. RX-03 AND RX-03-A

Pursuant to Section 3, Paragraph 7 of Wage Order No. RX-03 as amended, and Sections 1 (d), (f) and (h) Chapter II, as well as Section 10, Chapter IV of the Rules Implementing the Wage Order, the following guidelines on exemption for non - plantation agricultural establishments, hospitals with bed capacities of not more than fifty (50) beds or classified as primary or secondary hospitals by the Department of Health, as well as labor - intensive establishments are hereby issued for the guidance of all concerned.

SECTION 1. DEFINITION OF TERMS

- a. Wage Order - means RTWPB Wage Order Nos. RX-03 and RX-03-A;
- b. RTWPB X - means the Regional Tripartite Wages and Productivity Board of Region X;
- c. NWPC - refers to the National Wages and Productivity Commission;
- d. Department - means the Department of Labor and Employment of Region X;
- e. Non - Plantation Agricultural Establishment - refers to an economic unit which is engaged in agriculture, with an area of not more than 24 hectares in a locality, or employing less than 20 workers;
- f. Hospitals with bed capacities of not more than fifty (50) beds - refers to hospitals which have not more than 50 beds intended for patients.
- g. Primary Hospital - as defined by the Department of Health - i.e., that offers the following services: OB, pediatric and medicine, but without major surgical services, and usually of 10 - 15 bed capacity;
- h. Secondary Hospital - as defined by the Department of Health-i.e., regardless of bed capacity, offers the following services: OB, pediatric, surgery and medicine, but not departmentalized;
- i. Labor - Intensive Establishment - means one which has a labor cost equal to or more than 30% of production cost and/or employs a ratio of one worker per P100,000.00 capitalization:

SECTION 2. PROCEDURE AND DOCUMENTS REQUIRED

A. Procedure for Filing of Application for Exemption

1. An application, under oath, in two (2) typewritten copies, may be filed in person or by registered mail by the duly authorized representative of an establishment, with the Board or through the nearest office of the Department of Labor and Employment in the region.

2. Applications must be filed not later than sixty (60) days from the date of publication of the approved Rules Implementing the Wage Order.
3. The post mark in the case of mailed applications, shall be deemed the date of filing.
4. The application must be accompanied by complete supporting documents as enumerated under subsection B hereof. An application with incomplete supporting documents shall not be accepted or if received by mail, shall be deemed not filed.

B. Documents Required

The following supporting documents shall be submitted together with the application for exemption:

1. Non - Plantation Agricultural Establishment

- a. Proof of notice under oath of the filing of the application to the President of the Union/contracting party if one is organized in the establishment, or if there is no union, a copy of the circular giving general notice to all workers of the establishment of the filing of the application for exemption. The notice may be translated in the vernacular and a copy thereof shall be posted in a conspicuous place in the establishment together with the other required supporting documents.
- b. Affidavit from the employer regarding the principal economic activity, no. of regular workers and land area (in hectares);
- c. Business Permit for the applicable year from the City or Municipal Mayor or any official document to determine the nature of the business;
- d. Certification from the Department of Agriculture as to the classification of the establishment.

2. Hospital

- a. Proof of Notice under oath of the filing of the application to the President of the Union/ contracting party if one is organized in the establishment, or if there is no union, a copy of the circular giving general notice to all workers of the establishment of the filing of the application for exemption. The notice may be translated in the vernacular and a copy thereof shall be posted in a conspicuous place in the establishment together with the other required supporting documents.
- b. Affidavit from the employer regarding the hospital's bed capacity, and services offered;
- c. Photocopy of the certificate issued by the Department of Health as to the classification of the hospital - i.e., whether primary or otherwise (CY 1992-1993);
- d. Business Permit (CY 1992-93)

3. Labor - Intensive Establishment

- a. Proof of Notice under oath of the filing of the application to the President of the Union/ contracting party if one is organized in the establishment, or if

there is no union, a copy of the circular giving general notice to all workers of the establishment of the filing of the application for exemption. The notice may be translated in the vernacular and a copy thereof shall be posted in a conspicuous place in the establishment together with the other required supporting documents.

- b. Affidavit from employer regarding the principal economic activity, number of employees (with classification), labor cost, production cost and capitalization;
- c. Audited Financial Statements for the last two (2) full accounting periods (1991 and 1992) filed and stamped received by the Bureau of Internal Revenue;
- d. Business Permit for the applicable year from the City or Municipal Mayor or any official document to determine the nature of the business.

SECTION 3. CRITERIA FOR EXEMPTION.

An applicant - firm may be granted an exemption from compliance with the Wage Order if it meets the following criteria:

a. Non - Plantation Agricultural Establishment

1. if it is engaged in agriculture as defined in chapter I (b) of the Rules Implementing Wage Order No. RX-03; and
2. if it has a land area of not more than 24 hectares in the locality or if it employs less than twenty (20) workers.

b. Hospital

1. if its bed capacity does not exceed fifty (50); or
2. if it is classified as a primary or secondary hospital by the Department of Health.

c. Labor - Intensive Establishment

1. if its labor cost ratio is at least 30% of production cost; and/or
2. if it employs a ratio of one (1) worker per ₱ 100,000.00 capitalization;

SECTION 4. WORKERS' OPPOSITION.

Any worker or, if unionized, the union in the applicant establishment, may file with the appropriate 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 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.

SECTION 5. ACTION ON APPLICATION FOR EXEMPTION.

Upon receipt of an application with complete documents, the Board shall take the following steps:

- a. Notify the DOLE Regional Office X of the pendency of the application requesting that action on any complaint for non-compliance with the Order be deferred pending resolution of the application by the Board.
- b. Request the Department to conduct ocular inspection, if necessary, of establishments applying for exemption to verify number of workers, nature of business and other relevant information.

- c. Act and decide on the application for exemption with complete documents, as much as practicable, within 45 days from the date of filing. In case of contested applications, the Board may conduct conciliation or call hearings thereon..
- d. Transmit the decision of the Board to the applicant establishment, the workers or President of the union, if any, and the DOLE Regional Office X, for their implementation/ enforcement.

SECTION 6. MOTION FOR RECONSIDERATION.

The 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 thereof and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office No. 10.

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

SECTION 7. EFFECTIVITY OF APPROVED APPLICATION.

An exemption granted under this Guidelines with respect to Wage Order Nos. RX-03 and RX-03-A shall be effective December 8, 1993 until December 7, 1994.

All exemptions granted under the Guidelines may be revoked when the establishment ceases to conform with the criteria set forth under Section 3 of this Guidelines upon inspection and verification by the Department.

SECTION 8. EFFECT OF DISAPPROVED APPLICATION.

In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage/allowance increase as provided for under the Order retroactive to the date of effectivity of the Order plus an interest of one percent (1%) per month.

SECTION 9. NON - DIMINUTION OF BENEFITS.

An exemption granted under this Guidelines shall not be construed as authorizing the reduction of any existing wage, allowance and benefits of any form enjoyed by the workers under existing wage, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and employers and employer practices or policies.

SECTION 10. REPEALING CLAUSE.

All issuances, guidelines, rules and regulations or parts thereof inconsistent with the provisions of this Guidelines are hereby repealed, amended or modified accordingly.

SECTION 11. EFFECTIVITY.

This Guidelines shall take effect upon publication in a newspaper of general circulation in the region.

Done in Cagayan de Oro City, Philippines, this 9th day of June, 1994.

(SGD) DIR. NINFA A. ALBANIA
Vice Chairman

(SGD) DIR. RAYMUNDO E. FONOLLERA
Vice Chairman

I refuse to sign

MRS. FLORENCIA P. CABATINGAN
Labor Representative

(SGD) REV. PRUDENCIO T. PLAZA, JR.
Employers' Representative

I refuse to sign
MR. DEMETRIO S. SUSON
Labor Representative

(SGD) MR. ARSENIO L. SEBASTIAN III
Employers' Representative

(SGD) DIR. BARTOLOME C. AMOGUIS
Chairman

Approved this 14th day of September 1994.

(SGD) CRESENCIANO B. TRAJANO
Chairman Designate, NWPC