

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

WAGE ORDER NO. RX-05
PROVIDING AN INCREASE IN THE BASIC WAGE AND COST OF LIVING ALLOWANCE

WHEREAS, the Regional Tripartite Wages and Productivity Board - Region 10 is mandated among others to periodically review the prevailing wage rates applicable in the region, provinces, or industries therein;

WHEREAS, the prices of basic goods and services have been increasing which led to a rise in inflation rate;

WHEREAS, there is a need to restore the purchasing power of peso which has been eroded since the last wage order issued by the Board;

WHEREAS, after taking into consideration the significant economic indicators and the interests of both labor and management on wage issue, the Board decided to adjust the workers compensation to advance the living standard of the workers in the private sector;

NOW THEREFORE, by virtue of the power and the authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board-Region 10 hereby issues this Wage Order :

Section 1. All private sector workers and employees in Region X regardless of their position, designation or status, receiving a daily wage of not more than ONE HUNDRED SIXTY PESOS (P160.00) per day shall receive the following:

- (a) For provinces of Bukidnon, Misamis Occidental, Misamis Oriental and the cities of Cagayan de Oro, Gingoog, Oroquieta, Ozamis and Tangub an increase of FIFTEEN PESOS (P15.00) per day Cost of Living Allowance (COLA);
- (b) For the province of Camiguin, an increase of TWELVE PESOS (P12.00) per day Cost of Living Allowance (COLA).

The Cost of Living Allowance granted under Wage Order No. RX-03 amounting to TEN PESOS (P10.00) per day shall be integrated into the daily wage in the following manner :

- (1) FIVE PESOS (P5.00) per day effective August 1, 1996; and
- (2) FIVE PESOS (P5.00) per day effective March 1, 1997.

However, only employees who are qualified recipients of the P10.00/day COLA under Wage Order No. RX-03 are entitled to the integration.

Those who have converted the P10.00 COLA under Wage Order RX-03 into the basic wage are deemed to have complied with the aforementioned integration.

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

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

Provided further that in the case of educational institutions, compliance with this Order shall be mandatory effective School Year 1997-1998.

Section 3. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed Wage and/or COLA increase for covered workers shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed increase the construction/service contractors shall be jointly and severally liable with the principal client.

Section 4. Exempted from the provision of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Section 5. Upon application with and as determined by the Board, in accordance with the applicable rules and regulations issued by the Commission, the following may be exempted from the applicability of this Wage Order:

- a) Retail/Service establishments regularly employing not more than ten (10) workers;
- b) Distressed establishments;
- c) New businesses established in Northern Mindanao or Region X starting January, 1994 and those that may be established within one (1) year from the effectivity of this Wage Order, whose assets after financing does not exceed FIVE MILLION PESOS (P5,000,000.00);
- d) Non-stock and Non-profit institutions whose only source of income are donations;
- e) Hospitals whose bed capacities are 50 beds or classified as primary or secondary;
- f) Labor intensive establishments;
- g) Agricultural non-plantation;
- h) Petroleum Retailing Industry; and
- i) Exporting firms, including indirect exporters with existing forward contracts with their foreign buyers/principals at the time of effectivity of this Wage Order may be exempted during the lifetime of the said contract but not to exceed twelve (12) months from the effectivity of this Order.

Section 6. The Board has the discretion to grant full or partial exemption to such employer with respect to the amount or period of exemption but in no case shall it exceed one (1) year from the effectivity of this Wage Order.

Distressed Establishments may reapply for an extension of exemption provided the condition prevailing at the time of application still exist.

Section 7. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with this Wage Order shall be deferred pending its resolution.

Section 8. In the event that an application for this exemption is denied, the employees of the applicant firm shall receive the appropriate Wage and/or COLA increase due them as provided for by this Wage Order plus interest of one per cent (1%) per month retroactive to the effectivity of this Wage Order.

Section 9. Wage increases and allowances granted effective May 27, 1996 up to the effectivity of this Wage Order shall be credited as compliance with the prescribed minimum wage and allowance increase set forth herein.

In case the increases given are less than the prescribed adjustment, the employer shall pay the difference, such increases shall not include company anniversary increases, merit increases and those resulting from the regularization or promotion of employees.

Section 10. Establishments whose employees' wage rates are over and above the prescribed adjustments provided under this Wage Order, are exempted from compliance of this Wage Order. This shall be without prejudice on the part of the unionized establishments from taking cognizance of the reasons for the issuance of this Wage Order as basis for representatives of labor and management to explore

possibilities of wage improvement through the processes of voluntary negotiation and collective bargaining

Section 11. Where the application of the Wage and/or COLA increase prescribed in this Order results in distortions in the wage structure with in any establishment, such distortions shall be corrected using the procedure as specified under Art. 124 of the Labor Code as amended.

Section 12. All workers paid by result or output, including those who are paid on piecework, takay, pakyaw or task basis shall receive not less than the prescribed Wage and/or COLA increase per eight (8) hours work a day or a proportion thereof for working less than eight (8) hours.

Section 13. Any employer who refuses or fails to pay the minimum wage rate and/or allowance increase provided under this Wage Order shall be subject to the penalties specified under Republic Act 6727.

Section 14. The Regional 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 15. If any provision or part of this Wage Order is declared unconstitutional or illegal the other provisions or part thereof shall remain valid.

Section 16. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or other benefits under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between workers and employers or employers practices and policies.

Section 17. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

APPROVED.

Cagayan de Oro City, Philippines, June 14, 1996.

(SGD) PRUDENCIO T. PLAZA, JR.
Employer Sector Representative

(SGD) FLORENCIA P. CABATINGAN
Labor Sector Representative

(SGD) ARSENIO L. SEBASTIAN III
Employer Sector Representative

(SGD) DEOGRACIAS M. DAMPALAN
Labor Sector Representative

(SGD) NINFA A. ALBANIA
Vice Chairman

(SGD) RAYMUNDO E. FONOLLERA
Vice Chairman

BARTOLOME C. AMOGUIS
Chairman

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

RULES IMPLEMENTING WAGE ORDER NO. RX-05

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing, and Section 14 of Wage Order No. RX-05, the following rules are hereby issued for guidance and compliance by all concerned:

RULE I
PRELIMINARY PROVISIONS

Section 1. Title. These Rules shall be known as the Rules Implementing Wage Order No. RX-05.

Section 2. Definition of Terms - As used in this Rules :

- a) "Order" refers to Wage Order No. RX-05;
- b) "Department" refers to the Department of Labor and Employment;
- c) "Commission" refers to the National Wages and Productivity Commission;
- d) "Board" refers to the Regional Tripartite Wages and Productivity Board of Region X;
- e) "Region X" covers the provinces of Bukidnon, Camiguin, Misamis Occidental and Misamis Oriental and the cities of Cagayan de Oro, Gingoog, Oroquieta, Ozamiz and Tangub;
- f) "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;
- g) "COLA" means Cost of Living Allowance;
- h) "Minimum Wage Rate" refers to the lowest wage rate 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;
- i) "Statutory Minimum Wage" is the lowest wage rates fixed by law that an employer can pay his workers;
- 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) "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;

- l) "Service Establishment" is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such;
- m) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Sec. 5, Rule IV of this Rules and Section 3(3) of NWPC Guidelines No. 01 Series of 1992.
- n) "New Business" refers to an enterprise established in Northern Mindanao or Region X including non-profit institutions, registered with the appropriate government agency such as SEC, DTI, CDA and mayor's office, starting January 1, 1994 and those that will be established within one (1) year from the effectivity of this Wage Order, and whose assets after financing does not exceed FIVE MILLION PESOS (P5,000,000.00);
- o) "Non-stock Non-profit Institution" refers to one organized principally for public service purposes such as charitable, educational, cultural or similar purposes whose revenues are derived primarily from donations;
- p) "Hospitals whose bed capacities are 50-beds" refer to hospitals which have not more than 50 beds intended for patients or classified as primary or secondary;
- q) "Primary Hospital" as defined by the Department of Health is one that offers the following services: OB, pediatric, and medicine, but without major surgical services, and usually of 10 to 15 bed capacity;
- r) "Secondary Hospital" as defined by the Department of Health offers the following services regardless of bed capacity : OB, pediatric, surgery and medicine, but not departmentalized;
- s) "Labor Intensive Establishment" means one which has a labor cost equal to or more than 30% of production cost or employs a ratio of one worker per P100,000 .00 capitalization;
- t) "Capitalization" means paid up capital in the case of corporations and total invested capital in the case of partnership or single proprietorship;
- u) "Agriculture" refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, dairying, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, aquaculture, the 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 or processing of sugar, coconut, abaca, tobacco, pineapple, or other farm products, marine and aquaculture;
- v) "Agricultural Non-Plantation" 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;
- w) "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 with total assets above P150,000.00 up to P1,500,000.00 pursuant to SMED Council Regulation No. 3 series of 1991;
- x) "Petroleum retailing industry" includes diesel fuel oil filling station, gas and oil filling station, gasoline service station, grease and oil lubricant retailing as well as liquefied petroleum gas retailing;
- y) "Exporting Firms" refer to individuals, corporations or entities duly organized and existing under Philippine laws which actually and directly engage in the manufacture and exportation of goods or commodities;

- z) "Indirect Exporters" refer to individuals, corporations or entities duly organized and existing under Philippine laws engaged in the manufacture of goods or commodities for an exporting firm or principal;
- aa) "Forward Contracts" refer to any written agreement entered into by an exporting firm as defined herein and its foreign buyer or principal prior to the effectivity of the Order;
- bb) "Buyer/principal" any foreign individual, corporation, or entity with an existing contract for the importation of goods and commodities produced or manufactured by an exporting firm/indirect exporter as defined herein.
- cc) "Wage Distortion" means a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative difference in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.

RULE II COST OF LIVING ALLOWANCE

Section 1. Coverage. The COLA prescribed in the Order shall apply to all private sector workers and employees in Region X receiving a Basic wage of not more than ONE HUNDRED SIXTY PESOS (P160.00) per day or its monthly equivalent regardless of their position, designation or status, and irrespective of the method by which their wages are paid, except household or domestic helpers and workers employed in the personal service of another, including family drivers.

Section 2. Amount of COLA and Effectivity of Increase. In line with the rationalization of wages, the COLA increase of workers and employees covered in the preceding Section and upon the effectivity of the Order on July 03, 1996, except those covered under Sec. 1 and 2, Rule V of this Rules, shall be as follows:

- a) P15.00 per day for those in the provinces of Bukidnon, Misamis Occidental, Misamis Oriental and the cities of Cagayan de Oro; Gingoog; Oroquieta, Ozamiz and Tangub; and
- b) P12.00 per day for those in the province of Camiguin

Section 3. Allowances of Full Time and Part Time Employees. Full time employees shall be paid the COLA for everyday 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 COLA provided under the Order when they are on leave of absence with pay.

Section 5. Relation to Social Security and Workmen's Compensation. An employee who is receiving workmen's compensation and/or social security benefits in lieu of wages is entitled to the COLA to the extent of such compensation or benefit.

RULE III COLA INTEGRATION

Section 1. Coverage and Amount. All workers and employees covered in Section 1, Rule II of this Rules who are qualified recipient of the COLA granted under Wage Order RX-03 shall be entitled to the COLA Integration of TEN PESOS (P10.00) per day.

Section 2. Manner of Payment. The COLA prescribed in the preceding section shall be integrated into the daily basic wage in the following manner:

- a. Five Pesos (P5.00) per day effective August 1, 1996; and

sales of less than P 5M	88.50	10.00	88.50	25.00	93.50	20.00	98.50	15.00
c) Non-Plantation	78.50	10.00	78.50	25.00	83.50	20.00	88.50	15.00
E. Business Enterprises with Capitalization of not more than P 500,000 & employing Not more than 20 workers								
1. Non-Agriculture	99.00	10.00	99.00	25.00	104.00	20.00	109.00	15.00
2. Agriculture Plantation								
a) Products other than sugar	89.00	10.00	89.00	25.00	94.00	20.00	99.00	15.00
b) Sugar	83.50	10.00	83.50	25.00	88.50	20.00	93.50	15.00

DAILY MINIMUM WAGE RATES
REGION X, NORTHERN MINDANAO
Per Wage Order RX-05
Effective July 04, 1996

Table 2 TYPE OF ESTABLISHMENT	Provinces of Misamis Occidental and the Cities of Oroquieta, Ozamiz and Tangub							
	Under Wage Order No. RX-03 * (Dec. 08, 1993)		Effective July 04, 1996		Effective August 1, 1996		Effective March 1, 1997	
	Basic Wage	COLA	Basic Wage	COLA	Basic Wage	COLA	Basic Wage	COLA
A. Non-Agriculture	107.00	10.00	107.00	25.00	112.00	20.00	117.00	15.00
B. Agriculture								
1. Plantation with an annual gross sales of P5M or more	97.00	10.00	97.00	25.00	102.00	20.00	107.00	15.00
2. Plantation with an annual gross sales of less than P5M	92.00	10.00	92.00	25.00	97.00	20.00	102.00	15.00
3. Non-Plantation	76.50	10.00	76.50	25.00	81.50	20.00	86.50	15.00
C. Cottage/Handicrafts								
1. Employing more than 30 workers	85.00	10.00	85.00	25.00	90.00	20.00	95.00	15.00
2. Employing not more than 30 workers	83.00	10.00	83.00	25.00	88.00	20.00	93.00	15.00
D. Private Hospitals								
1. Private hospitals with less than 50-bed capacity or classified as primary or secondary hospitals	93.00	10.00	93.00	25.00	98.00	20.00	103.00	15.00
2. Private hospitals with more than 50-bed capacity or classified as Tertiary hospitals	103.00	10.00	103.00	25.00	108.00	20.00	113.00	15.00
E. Retail/Service Establishment								
1. Employing more than 15 workers	107.00	10.00	107.00	25.00	112.00	20.00	117.00	15.00
2. Employing 11-15 workers	103.00	10.00	103.00	25.00	108.00	20.00	113.00	15.00
3. Employing not more than 10 workers	76.00	10.00	76.00	25.00	81.00	20.00	86.00	15.00
4. Municipalities and Cities with population of not more than 150,000								
a) Employing more than 10 workers	103.00	10.00	103.00	25.00	108.00	20.00	113.00	15.00
b) Employing not more than 10 workers	76.00	10.00	76.00	25.00	81.00	20.00	86.00	15.00
F. Sugar								
1. Sugar Mills	109.00	10.00	109.00	25.00	114.00	20.00	119.00	15.00
2. Agriculture								
a) Plantation with an annual gross sales of P 5M or more	91.50	10.00	91.50	25.00	96.50	20.00	101.50	15.00
b) Plantation with an annual gross sales of less than P 5M	86.50	10.00	86.50	25.00	91.50	20.00	96.50	15.00
c) Non-Plantation	76.50	10.00	76.50	25.00	81.50	20.00	86.50	15.00
E. Business Enterprises with Capitalization of not more than P 500,000 & employing not more than 20 workers								
1. Non-Agriculture	97.00	10.00	97.00	25.00	102.00	20.00	107.00	15.00
2. Agriculture Plantation								
a) Products other than sugar	87.00	10.00	87.00	25.00	92.00	20.00	97.00	15.00

b) Sugar	81.50	10.00	81.50	25.00	86.50	20.00	91.50	15.00
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* Including Agusan del Sur, Surigao del Norte and Surigao City, now belonging to CARAGA Region per RA 7901

DAILY MINIMUM WAGE RATES
REGION X, NORTHERN MINDANAO
Per Wage Order RX-05
Effective July 04, 1996

Table 3 TYPE OF ESTABLISHMENT	Province of Camiguin							
	Under Wage Order No. RX-03 * (Dec. 08, 1993)		Effective July 04, 1996		Effective August 1, 1996		Effective March 1, 1997	
	Basic Wage	COLA	Basic Wage	COLA	Basic Wage	COLA	Basic Wage	COLA
A. Non-Agriculture	105.00	10.00	105.00	22.00	110.00	17.00	115.00	12.00
B. Agriculture								
1. Plantation with an annual gross sales of P5M or more	95.00	10.00	95.00	22.00	100.00	17.00	105.00	12.00
2. Plantation with an annual gross sales of less than P5M	90.00	10.00	90.00	22.00	95.00	17.00	100.00	12.00
3. Non-Plantation	74.50	10.00	74.50	22.00	79.50	17.00	84.50	12.00
C. Cottage/Handicrafts								
1. Employing more than 30 workers	83.00	10.00	83.00	22.00	88.00	17.00	93.00	12.00
2. Employing not more than 30 workers	81.00	10.00	81.00	22.00	86.00	17.00	91.00	12.00
D. Private Hospitals								
1. Private hospitals with less than 50-bed capacity or classified as primary or secondary hospitals	91.00	10.00	91.00	22.00	96.00	17.00	101.00	12.00
2. Private hospitals with more than 50-bed capacity or classified as Tertiary hospitals	101.00	10.00	101.00	22.00	106.00	17.00	111.00	12.00
E. Retail/Service Establishment								
1. Employing more than 15 workers	105.00	10.00	105.00	22.00	110.00	17.00	115.00	12.00
2. Employing 11-15 workers	101.00	10.00	101.00	22.00	106.00	17.00	111.00	12.00
3. Employing not more than 10 workers	74.00	10.00	74.00	22.00	79.00	17.00	84.00	12.00
4. Municipalities and Cities with population of not more than 150,000								
a) Employing more than 10 workers	101.00	10.00	101.00	22.00	106.00	17.00	111.00	12.00
b) Employing not more than 10 workers	74.00	10.00	74.00	22.00	79.00	17.00	84.00	12.00
F. Sugar								
1. Sugar Mills	107.00	10.00	107.00	22.00	112.00	17.00	117.00	12.00
2. Agriculture								
a) Plantation with an annual gross sales of P 5M or more	89.50	10.00	89.50	22.00	94.50	17.00	99.50	12.00
b) Plantation with an annual gross sales of less than P 5M	84.50	10.00	84.50	22.00	89.50	17.00	94.50	12.00
c) Non-Plantation	74.50	10.00	74.50	22.00	79.50	17.00	84.50	12.00
E. Business Enterprises with Capitalization of not more than P 500,000 & employing not more than 20 workers								
1. Non-Agriculture	95.00	10.00	95.00	22.00	100.00	17.00	105.00	12.00
2. Agriculture Plantation								
a) Products other than sugar	85.00	10.00	85.00	22.00	90.00	17.00	95.00	12.00
b) Sugar	79.50	10.00	79.50	22.00	84.50	17.00	89.50	12.00

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 the Order shall be for the normal working hours not exceeding eight (8) hours a day.

RULE IV EXEMPTIONS

Section 1. Workers not covered in the Order. Not covered from the provisions of the Order are household or domestic helpers and persons employed in the personal service of another, including family drivers.

Section 2. 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 may be exempted from the applicability of the Order:

- a) Retail/Service establishments regularly employing not more than ten (10) workers;
- b) Distressed establishments;
- c) New Businesses;
- d) Non-stock Non-profit institutions;
- e) Hospitals whose bed capacities are 50 beds and below;
- f) Labor intensive establishments;
- g) Agricultural non-plantation;
- h) Petroleum retailing industry; and
- i) Exporting firms.

Section 3. Application for Exemption. Within sixty (60) days from the date of publication of this Rules, qualified establishments may file an application for exemption with the Board in two (2) typewritten copies by the owner/manager or duly authorized representative of an establishment, either through personal service or by registered mail. The date of mailing shall be deemed as the date of filing.

In the case of New Businesses which may be established after the effectivity of this Wage Order may file an application with the Board within sixty (60) days from the start of its operation.

All applications for exemption shall be under oath and must be supported by a proof of notice to the Union President/contracting party (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 posted in a conspicuous place in the establishment.

Section 4. Supporting Documents. Aside from those prescribed in Sec. 3 Rule IV of this Rules, and in accordance with the rules prescribed in the NWPC Revised Guidelines on Exemption, the following supporting documents shall be submitted together with the application:

- A. For Retail/Service Establishments Employing not more than ten (10) workers:
 1. Affidavit from the employer stating the principal economic activity and the number of workers employed in the establishment;
 2. Business Permit for the current year from the Office of the City/Municipal Mayor, or SEC or DTI or appropriate government agencies.
- B. For Distressed Establishments:
 1. 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 the BIR and SEC;
 2. Interim quarterly financial statements (together with the notes thereto) for the period immediately preceding the effectivity of the Order;

3. Income Tax Returns for the last two (2) taxable periods filed with and stamped "received" by the BIR;
 4. Quarterly income tax returns immediately preceding the effectivity of the Order filed with and stamped "received" by the BIR;
- C. For New Businesses:
1. Affidavit from the employer stating the principal economic activity, date of start of operation, number of employees and amount of total assets of the establishment;
 2. Business permit for the current year from the appropriate government agencies.
- D. For Non-stock and Non-profit Institutions:
1. 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;
 2. Income Tax Returns for the last two (2) taxable periods filed with and stamped "received" by the BIR.
- E. For Hospitals whose bed capacities are 50 beds and below or classified as primary or secondary:
1. Affidavit from the employer stating the hospital's bed capacity, and services offered;
 2. Photocopy of the certificate issued by the Department of Health as to the classification of the hospital-i.e. whether primary or otherwise (CY 1995-1996);
 3. Business Permit (CY 1995-1996)
- F. For Labor Intensive Establishments:
1. Affidavit from employer stating the principal economic activity, number of employees (with classification), labor cost, production cost and capitalization;
 2. Audited financial statements (together with the notes thereto) for the last two (2) full accounting periods immediately preceding the effectivity of the Order, filed and stamped "received" by the BIR and SEC and accompanied by Schedules of Cost of Goods Manufactured and Sold;
 3. Business permit for the applicable year from the City or Municipal Mayor or any official document to determine the nature of the business.
- G. For Agricultural Non-plantation:
1. Affidavit from the employer stating the principal economic activity, number of regular workers and land area (in hectares);
 2. Business permit for the applicable year from the City or Municipal Mayor or any official document to determine the nature of the business;
 3. Certification from the Department of Agriculture as to the classification of the establishment.
- H. Petroleum Retailing Industry
1. Affidavit from employer stating the principal economic activity and number of employees;
 2. Business permit for the applicable year.
- I. For Exporting Firms:
1. Affidavit from the employer stating the principal economic activity, number of employees/workers, existing union, if any, and list of forward contracts entered into with the following information among others:
 - a. name of foreign buyers or principals and addresses;
 - b. date of contracts;
 - c. delivery or shipping dates;
 - d. amount and volume of orders
 2. Business Permit for the current year from the Office of the City/Municipal Mayor, or registration from BOI, DTI, or CDA, or Articles of Incorporation from SEC or other governmental agencies;

3. Basic documents to be submitted are:
 - a. Certified true copies of the forward contracts covered;
 - b. Irrevocable Letters of Credit;
 - c. Certificate of Accreditation from the Bureau of Export Trade Promotion (BETP) or any of its deputized agencies.
4. Other available documents to support the application for exemption:
 - a. Purchase Order;
 - b. Proof of acceptance of the Purchase Order;
 - c. Bill of Lading.

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 the submission of other pertinent documents to support the application for exemption.

Section 5. Criteria for Exemption. In order to determine whether an applicant establishment is qualified for exemption, the following criteria shall be used:

- A. In the case of Retail/Service Establishment,
 1. It is engaged in the retail sale of goods or services to end-users for personal or household use; and
 2. It is regularly employing not more than ten (10) workers.
- B. In the case of Distressed Establishments,
 1. Those whose paid-up capital has been impaired by at least 25% during the last two (2) full years and interim period, if any, immediately preceding the effectivity of the Order;
 2. For Non-stock/non-profit institutions that do not charge fees for services rendered and whose revenues are derived primarily from donations and contributions shall be exempted when such revenues during the year preceding the effectivity of the Order have declined by at least 10 percent from previous year.
 3. Where a subject applicant, be it a corporation, partnership or a single proprietorship requests for an exemption for a particular branch or any of its subdivision thereof, the consolidated audited financial statements will be used as the basis in determining whether the firm is distressed or not.
- C. In the case of New Business,
 1. All agricultural enterprises whether plantation or non-plantation;
 2. Enterprises with total assets after financing of P5M and below;
 3. Enterprises pursuing activities listed under the Investment Priorities Plan (IPP) of the Board of Investments, except mining.
- D. In the case of Hospitals,
 1. If its bed capacity does not exceed fifty (50); or
 2. If it is classified as primary or secondary hospital by the Department of Health
- E. In case of Labor Intensive Establishments,
 1. If its labor cost ratio is at least 30% of production cost; or
 2. If it employs a ratio of one (1) worker per P100,000.00 capitalization.
- F. In case of Agricultural Non-plantation,
 1. If it is engaged in agriculture as defined in Sec. 2.U, Chapter I of the Rules; 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.

- G. In case of Petroleum Retailing Industry,
1. Must be engaged in the petroleum retailing industry as defined in this Rules;
 2. Exemption shall only be allowed for as long as the prices remain regulated by the Government, but not to exceed one (1) year. In case of deregulation the exemption granted shall automatically cease.

H. In case of Exporting Firms,
The following criteria shall be used to determine whether the applicant establishment is qualified for exemption:

1. The applicant must have forward contracts executed prior to June 18, 1996;
2. The applicant must be engaged in the manufacture or processing of export products, with at least fifty percent (50%) of its normal operating revenues earned from export sales;
3. The applicant must be directly exporting its export products, or selling them:
 - a. to an exporting firm that subsequently exports the said products; or
 - b. to other export producers who utilize said products as direct inputs in products subsequently manufactured or processed by them and thereafter exported; or
 - c. to foreign buyers and foreign principals.

Section 6. Duration and Extent of Exemption. Establishments shall be granted full exemption on one (1) year from the effectivity of the Order for all categories of exemption.

However, distressed establishments under Section 5 (B) hereof which register at least 20% but less than 25% capital impairment or at least 7.5% but less than 10% decline in revenues, as the case may be, shall be granted partial exemption with respect to the amount and period of exemption.

Section 7. Effect of Filing of an Application for Exemption. Whenever the application has been duly filed with the Board, action on any complaint for alleged non-compliance with the Order shall be deferred pending its resolution.

Section 8. Effect of Disapproved Application. In the event that the application for exemption is denied, the employees of the applicant firm shall receive the appropriate wage and/or COLA increases due them as provided for under the Order plus interest of one percent (1%) per month retroactive to the effectivity of the Order (July 03, 1996).

Section 9. 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.

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 10. Appeal. any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two (2) legible copies, not later than ten (10) days from the date of receipt of the decision. The appeal must be filed in the manner prescribed by the Commission and must be based on any of the following grounds:

- a. non-conformity with the prescribed guidelines/procedures on exemption;
- b. prima facie evidence of grave abuse of discretion on the part of the Board; or
- c. questions of law.

RULE V GENERAL PROVISIONS

Section 1. 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 wage rate adjustments by the appropriate government agency during the three (3) month period immediately preceding the issuance

of the Order shall be required to pay their workers and employees the minimum wage increase and COLA prescribed herein immediately upon the effectivity the Order.

Provided, those who have not receive any adjustment as stated above shall be required to comply with the said Order 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 the Order.

Section 2. Application to Private Educational Institutions. Private educational institutions shall be required to comply with the COLA increase and integration prescribed under the Order effective SY 1997-98.

Section 3. Application to Workers Covered by Contracts for Works and Services. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed COLA increases and integration 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 rates, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 4. Workers Paid by Results or Output. All workers paid by results or output including those who are paid on piece-work, "takay", "pakyaw", or task basis, shall receive not less than the prescribed minimum wage and/or COLA increases for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

Section 5. Creditable Increase. Wage and/or COLA increases granted effective May 27, 1996 up to the effectivity of the Order shall be credited as compliance with the prescribed minimum wage and allowance set forth herein.

In case the increases given are less than the prescribed adjustment, the employer shall pay the difference. Such increases shall not include company anniversary increases, merit increases and those resulting from the regularization or promotion of employees.

RULE VI WAGE DISTORTION

Section 1. Effect on Existing Wage Structure. Where the application of the prescribed minimum wage and or COLA increase under this Order results in distortion in the wage structure within an establishment, the employer and the union shall negotiate to correct the distortions through the grievance procedure under the 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 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, 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.

Section 2. Effect of Dispute. The pendency of a dispute arising from wage distortion shall not in any way delay the applicability of the wage and/or COLA increase prescribed in the Order.

RULE VII SPECIAL PROVISIONS

Section 1. Complaints for Non-Compliance. Complaints for non-compliance with the wage and/or COLA increase set forth in the Order shall be filed with the Regional Office of the Department and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 2. 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 3. Establishments whose employees' wage rates are over and above the prescribed adjustments provided under the Order, are exempted from compliance thereof. This shall be without prejudice on the part of the unionized establishments from taking cognizance of the reasons for the issuance of the Order as basis for representatives of labor and management to explore possibilities of wage improvement through the processes of voluntary negotiation and collective bargaining.

Provided, any dispute or disagreement arising out of such negotiation and/or collective bargaining shall not be a ground for strike or lockout. Such dispute shall be referred to voluntary arbitration for resolution. The decision of the voluntary arbitrator in this case shall be binding, final, executory and unappealable.

Section 4. Penal Provision. Any employer who fails to pay the prescribed increase under the Order shall be subjected 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 5. 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 6. 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 1997, an 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". All information disclosed therein shall be treated as confidential.

Section 7. Effect on Other Issuances. The provisions of existing laws and decrees on wages and their implementing rules and regulations and issuances not otherwise repealed, modified or inconsistent with the Order and this Rules shall continue to have full force and effect, and shall have suppletory effect, as deemed necessary.

Section 8. Separability Clause. If any provision herein is held invalid or unconstitutional, any other provision shall continue to be valid and effective.

Section 9. Effectivity. This Rules shall take effect on July 3, 1996.

Done in Cagayan de Oro City, Republic of the Philippines, this 31st day of July, 1996.

Dissenting on Rule I, Sec. 2 V and Rule IV, Sec. 4, F2.

(SGD) FLORENCIA P. CABATINGAN
Labor Sector Representative

(SGD) PRUDENCIO T. PLAZA, JR.
Employer Sector Representative

Dissenting on Rule I, Sec. 2 V and Rule IV, Sec. 4, F2.

(SGD) DEOGRACIAS M. DAMPALAN
Labor Sector Representative

(SGD) ARSENIO L. SEBASTIAN III
Employer Sector Representative

(SGD) NINFA A. ALBANIA
Vice-Chairman

(SGD) RAYMUNDO E. FONOLLERA
Vice-Chairman

(SGD) BARTOLOME C. AMOGUIS
Chairman

Approved this 29th day of July, 1996.

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

ANNEX A

SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT
MONTHLY MINIMUM WAGE RATES

Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly statutory minimum wage rates (per DOLE Department Order No. 40 dated November 25, 1994).

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

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 391.50 \text{ days}}{12}$$

Where 391.50 days =

302	days -	Ordinary working days	
18	days -	9 regular holidays x 200%	
66.30	days -	51 rest days x 130%	
2.60	days -	2 special days x 130%	1/
2.60	days -	1 regular holiday falling on the last Sunday of August x 200% + (30% of 200%)	
2/			
391.50	days -	Total equivalent number of days	

- b) For those who do not work but considered paid on Sundays or rest days.

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

Where 365 days =

302	days -	Ordinary working days	
51	days -	Rest days	
10	days -	Regular holidays	
2	days -	Special days	1/
365	days -	Total Equivalent number of days	

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

$$\text{EMR} = \frac{\text{ADR} \times 314 \text{ (if worked 314.6)}}{12}$$

Where 314 days =

302	days -	Ordinary working days	
10	days -	Regular holidays	
2.6	days -	2 Special days, (if worked) X 130% this is equivalent to 2.6 days	
3/			
314.6	days -	Total equivalent number of days	

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

$$\text{EMR} = \frac{\text{ADR} \times 262 \text{ (if worked 262.6)}}{12}$$

Where 262 days =

250 days - Ordinary working days
10 days - Regular holidays
2.6 days - 2 Special days, (if worked) X 130% this is equivalent to 2.6 days
3/
262.6 days - Total equivalent number of days

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

2/including premium for holidays, special days and rest days

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

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

AMENDED WAGE ORDER NO. RX-05
PROVIDING AN INCREASE IN THE
BASIC WAGE AND COST OF LIVING ALLOWANCE

WHEREAS, the Regional Tripartite Wages and Productivity Board - Region 10 is mandated among others to periodically review the prevailing wage rates applicable in the region, provinces, or industries therein;

WHEREAS, the prices of basic goods and services have been increasing which led to a rise in inflation rate;

WHEREAS, there is a need to restore the purchasing power of peso which has been eroded since the last wage order issued by the Board;

WHEREAS, after taking into consideration the significant economic indicators and the interests of both labor and management on wage issue, the Board decided to adjust the workers compensation to advance the living standard of the workers in the private sector ;

NOW THEREFORE, by virtue of the power and the authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board-Region 10 hereby issues this Wage Order :

Section 1. All private sector workers and employees in Region X regardless of their position, designation or status, receiving a daily wage of not more than ONE HUNDRED SIXTY PESOS (P 160.00) per day shall receive the following :

- (a) For provinces of Bukidnon, Misamis Occidental, Misamis Oriental and the cities of Cagayan de Oro, Gingoog, Oroquieta, Ozamis and Tangub an increase of FIFTEEN PESOS (P 15.00) per day Cost of Living Allowance (COLA);
- (b) For the province of Camiguin, an increase of TWELVE PESOS (P 12.00) per day Cost of Living Allowance (COLA).

The Cost of Living Allowance granted under Wage Order No. RX-03 amounting to TEN PESOS (P 10.00) per day shall be integrated into the daily wage in the following manner :

- (1) FIVE PESOS (P 5.00) per day effective August 1, 1996; and
- (2) FIVE PESOS (P 5.00) per day effective March 1, 1997.

However, only employees who are qualified recipients of the P10.00/day COLA under Wage Order No. RX-03 is entitled to the integration.

Those who have converted the P10.00 COLA under Wage Order RX-03 into the basic wage are deemed to have complied with the aforementioned integration .

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

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

Provided further that in the case of educational institutions, compliance with this Order shall be mandatory effective School Year 1997-1998.

Section 3. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed Wage and/or COLA increase for covered workers shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed increase the construction/service contractors shall be jointly and severally liable with the principal client.

Section 4. Exempted from the provision of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Section 5. Upon application with and as determined by the Board, in accordance with the applicable rules and regulations issued by the Commission, the following may be exempted from the applicability of this Wage Order :

- a) Retail/Service establishments regularly employing not more than ten (10) workers;
- b) Distressed establishments ;
- c) New businesses established in Northern Mindanao or Region X starting January, 1994 and those that may be established within one (1) year from the effectivity of this Wage Order, whose assets after financing does not exceed FIVE MILLION PESOS (P5,000,000.00);
- d) Non-stock and Non-profit institutions whose only source of income are donations;
- e) Hospitals whose bed capacities are 50 beds **and below** or classified as primary or secondary;
- f) Labor intensive establishments;
- g) Agricultural non-plantation;
- h) Petroleum Retailing Industry; and
- i) Exporting firms, including indirect exporters with existing forward contracts with their foreign buyers/principals at the time of effectivity of this Wage Order may be exempted during the lifetime of the said contract but not to exceed twelve(12) months from the effectivity of this Order.

Section 6. In the case of distressed establishments, the Board has the discretion to grant full or partial exemption with respect to the amount and period of exemption, in accordance with Section 7 of the NWPC Guidelines No. 1, Series of 1992. In no case shall said exemption exceed one (1) year from the effectivity of the Order.

Section 7. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with this Wage Order shall be deferred pending its resolution.

Section 8. In the event that an application for this exemption is denied, the employees of the applicant firm shall receive the appropriate Wage and/or COLA increase due them as provided for by this Wage Order plus interest of one per cent (1%) per month retroactive to the effectivity of this Wage Order.

Section 9. Wage increases and allowances granted effective May 27, 1996 up to the effectivity of this Wage Order shall be credited as compliance with the prescribed minimum wage and allowance increase set forth herein.

In case the increases given are less than the prescribed adjustment, the employer shall pay the difference, such increases shall not include company anniversary increases, merit increases and those resulting from the regularization or promotion of employees.

Section 10. Establishments whose employees' wage rates are over and above the prescribed adjustments provided under this Wage Order, are exempted from compliance of this Wage Order. This shall be without prejudice on the part of the unionized establishments from taking cognizance of the reasons for the issuance of this Wage Order as basis for representatives of labor and management to explore

possibilities of wage improvement through the processes of voluntary negotiation and collective bargaining

Section 11. Where the application of the Wage and/or COLA increase prescribed in this Order results in distortions in the wage structure with in any establishment, such distortions shall be corrected using the procedure as specified under Art. 124 of the Labor Code as amended.

Section 12. All workers paid by result or output, including those who are paid on piecework, takay, pakyaw or task basis shall receive not less than the prescribed Wage and/or COLA increase per eight (8) hours work a day or a proportion thereof for working less than eight (8) hours.

Section 13. Any employer who refuses or fails to pay the minimum wage rate and/or allowance increase provided under this Wage Order shall be subject to the penalties specified under Republic Act 6727.

Section 14. The Regional 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 15. If any provision or part of this Wage Order is declared unconstitutional or illegal the other provisions or part thereof shall remain valid.

Section 16. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or other benefits under existing laws, decrees, issuances, executive orders and /or under any contract or agreement between workers and employers or employers practices and policies.

Section 17. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

APPROVED.

Cagayan de Oro City, Philippines, July 31, 1996.

SGD
PRUDENCIO T. PLAZA , JR.
Employer Sector Representative

SGD
FLORENCIA P. CABATINGAN
Labor Sector Representative

SGD
ARSENIO L. SEBASTIAN III
Employer Sector Representative

SGD
DEOGRACIAS M. DAMPALAN
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SGD
NINFA A. ALBANIA
Vice Chairman

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