

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-06
PROVIDING FOR NEW MINIMUM WAGE RATES IN REGION X

WHEREAS, the Regional Tripartite Wages and Productivity Board, Region 10 has reviewed the current daily minimum wage rates vis-a-vis the prevailing socio-economic condition of the region pursuant to its mandate;

WHEREAS, the Board has already conducted public consultations/hearings with the different sectors in the region;

WHEREAS, the Board recognizes the need to adjust the minimum wage rates to enable the workers in the region to cope with the rising cost of living without impairing the viability and global competitiveness of business organizations in the area;

WHEREAS, there is a need to simplify the wage structure and enhance effectiveness and efficiency in the enforcement of wage standards;

WHEREAS, labor and management are enjoined to address wage-related concerns, including wage distortions;

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. The Cost of Living Allowance granted under Wage Order No. RX-05 amounting to FIFTEEN PESOS (P15.00) per day shall be integrated into the daily wage upon effectivity of this Wage Order.

However, only employees who are qualified recipient of the P15.00/day COLA under Wage Order No. RX-05 are entitled to the integration.

Section 2. The new minimum wage shall be as follows:

- a) P 134.00 /day upon effectivity of this Wage Order;
- b) P 144.00/day effective December 18, 1997; and
- c) P 149.00/day, effective July 1, 1998.

Section 3. All establishments paying less than P 134.00/day shall be required to comply with this Wage Order through a staggered basis within one (1) year, as specified under the Implementing Rules.

Section 4. 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 increase 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 SY 1998-99, unless otherwise provided for in the Collective Bargaining Agreement.

Section 5. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase for covered workers shall be borne by the principals and the contract

shall be deemed amended accordingly. In the event, however, that the contractor fails to pay the prescribed minimum wage rates, the construction/service contractor and principal shall be jointly and severally liable.

Section 6. Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Section 7. 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 employing not more than ten (10) workers;
- b) Distressed establishments;
- b) New business enterprises (NBEs)
- c) Establishments adversely affected by natural calamities.

Section 8. Establishments with existing Productivity Gainsharing Schemes may be allowed crediting under this Wage Order, subject to the approval of the Board.

Section 9. 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 10. In the event that an application for this exemption is denied, the employees of the applicant firm shall receive the appropriate wage 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 11. Where the application of the wage increase prescribed in this Order results in distortions in the wage structure in any establishment, such distortions shall be corrected pursuant the procedure 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 rate for eight (8) hours work a day or a proportion thereof for working less than eight (8) hours.

Section 13. 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 14. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or part thereof shall remain valid.

Section 15. 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 16. 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, November 5, 1997.

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

(SGD) FLORENCIA P. CABATINGAN
Labor Sector Representative

(SGD) ARSENIO L. SEBASTIAN III
Employer Sector Representative

(SGD) NINFA A. ALBANIA

(SGD) RAYMUNDO E. FONOLLERA

Vice Chairman

Vice Chairman

(SGD) ALAN M. MACARAYA
Chairman

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

AMENDED WAGE ORDER NO. RX-06
(PROVIDING FOR NEW MINIMUM WAGE RATES IN REGION X)

WHEREAS, the Regional Tripartite Wages and Productivity Board, Region 10 has reviewed the current daily minimum wage rates vis-a-vis the prevailing socio-economic condition of the region, pursuant to its mandate;

WHEREAS, the Board has already conducted public consultations/hearings with the different sectors in the region;

WHEREAS, the Board recognizes the need to adjust the minimum wage rates to enable the workers in the region to cope with the rising cost of living without impairing the viability and global competitiveness of business organizations in the area;

WHEREAS, there is a need to simplify the wage structure and enhance effectiveness and efficiency in the enforcement of wage standards;

WHEREAS, labor and management are enjoined to address wage-related concerns, including wage distortions;

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. The Cost of Living Allowance granted under Wage Order No. RX-05 amounting to FIFTEEN PESOS (P 15.00) and TWELVE PESOS (12.00) depending on the concerned establishment's location should be integrated into the daily wage upon effectivity of this Wage Order.

Only employees who are qualified recipients of the COLA under Wage Order No. RX-05, however, are entitled to the integration

Also, all workers and employees receiving the mandated minimum wage under Wage Order No. RX-05 shall be granted the following wage increases:

- (a) P 10.00/day effective December 18, 1997; and
- (b) P 5.00/day, effective July 1, 1998

Section 2. To rationalize wages and facilitate compliance with the wage standards set herein, a re-grouping of the geographic areas in the region, as well as a reduction of the wage categories from 20 to 2 (agriculture and non-agriculture) is hereby made.

The new wage structure for new entrants shall thus, be as follows:

Daily Minimum Wage Region X, Northern Mindanao			
Geographical Classification	Effective November 22, 1997	Effective December 18, 1997	Effective July 1, 1998
A. Cagayan de Oro City and the Municipalities of Tagoloan, Jasaan, Villanueva			
Non-Agriculture	134.00	144.00	149.00
Sugar Mills	134.00	144.00	149.00

Agriculture	124.00	134.00	139.00
B. All other cities such as Gingoog, Tangub, Oroquieta, Ozamiz and all other cities that may be created hereafter, including the municipalities of Malaybalay and Valencia			
Non-Agriculture	132.00	142.00	147.00
Sugar Mills	132.00	142.00	147.00
Agriculture	122.00	132.00	137.00
C. All other municipalities			
Non-Agriculture	127.00	137.00	142.00
Sugar Mills	127.00	137.00	142.00
Agriculture	117.00	127.00	132.00

Note : Those already receiving higher wages shall continue to receive the same

Section 3. All establishments affected by the re-classification under this wage order and paying less than the prescribed minimum wage rate under Wage Order No. RX-05 as of November 22, 1997 shall be required to comply with this Wage Order through a staggered basis within one (1) year.

Section 4. 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 increase 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 SY 1998-99, unless otherwise provided for in the Collective Bargaining Agreement.

Section 5. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase for covered workers shall be borne by the principals and the contract shall be deemed amended accordingly. In the event, however, that the contractor fails to pay the prescribed minimum wage rates, the construction/service contractor and principal shall be jointly and severally liable.

Section 6. Not covered by this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Section 7. 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 employing not more than ten (10) workers;
- b) Distressed establishments;
- c) New business enterprises (NBEs)
- d) Establishments adversely affected by natural calamities.

Section 8. Establishments with existing Productivity Gainsharing Schemes may be allowed crediting under this Wage Order, subject to the approval of the Board.

Section 9. 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 10. In the event that an application for this exemption is denied, the employees of the applicant firm shall receive the appropriate wage 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 11. Where the application of the wage increase prescribed in this Order results in distortions in the wage structure in any establishment, such distortions shall be corrected pursuant the procedure 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 rate for eight (8) hours work a day or a proportion thereof for working less than eight (8) hours.

Section 13. 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 14. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or part thereof shall remain valid.

Section 15. 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 16. This Amended Wage Order shall take effect retroactive November 22, 1997.

APPROVED.

Cagayan de Oro City, Philippines, January 20, 1998.

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

(SGD) FLORENCIA P. CABATINGAN
Labor Sector Representative

(SGD) ARSENIO L. SEBASTIAN III
Employer Sector Representative

(SGD) NINFA A. ALBANIA
Vice Chairman

(SGD) RAYMUNDO E. FONOLLERA
Vice Chairman

(SGD) ALAN M. MACARAYA
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-06
PROVIDING FOR NEW MINIMUM WAGE RATES IN REGION X**

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

RULE I
PRELIMINARY PROVISIONS

Section 1. Title . These Rules shall be known as the Rules Implementing Wage Order No. RX-06.

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

- a) "Order" refers to Wage Order No. RX-06;
- b) "Commission" refers to the National Wages and Productivity Commission;
- c) "Board" refers to the Regional Tripartite Wages and Productivity Board of Region X;
- d) "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;
- e) "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, or other farm products;
- f) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- g) "Service Establishment" is one principally engaged in the sale of service to individuals for their own or household use and generally recognized as such;
- h) "Distressed Establishment" refers to an establishment which meets the criteria enumerated under this Rules and Section 3(A) of the NWPC Guidelines No. 01, Series of 1996;
- i) "Department" refers to the Department of Labor and Employment;
- j) "Basic Wage" means all remunerations 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;
- k) "Minimum Wage Rates" refers to the lowest wage rate that an employer can pay his workers, as fixed by the Board, which should not be lower than the applicable statutory minimum wage rates;
- l) "Statutory Minimum Wage" is the lowest wage rate fixed by law that an employer must pay his workers;

- m) "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.
- n) "Wage Order Year Rule" means that any Wage Order issued by the Board shall be effective for one (1) year and may not be disturbed during the said period. Therefore, within the said one (1) year period, no petition for wage increase may be entertained by the Board, provided that in the event supervening conditions exist as provided under Section 3, Rule IV in the Rules on minimum wage-fixing, the Board shall proceed to exercise its wage-fixing function even before the expiration of the said period;
- o) "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location;
- p) "Capital" - refers to paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships;
- q) "Full Accounting Period" - refers to a period of twelve (12) months or one year of business operations;
- r) "Deficit" - refers to the negative balance of the retained earnings account of a corporation, Retained earnings represent the cumulative balance of periodic earnings, dividend distributions, prior period adjustments and other capital adjustments;
- s) "New Business Enterprises" refer to establishments, including non-profit institutions, established outside export processing zones within two (2) years from effectivity of Wage Order No. RX-06 based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and the Mayor's Office.

RULE II
COLA INTEGRATION AND NEW MINIMUM WAGE RATES

Section 1. COLA Integration. The Cost of Living Allowance granted under Wage Order No. RX-05 amounting to FIFTEEN PESOS (P 15.00) and TWELVE PESOS (P 12.00) depending on the location shall be integrated into the daily wage upon effectivity of this Wage Order.

Only employees who are qualified recipients of the COLA under Wage Order No. RX-05, however, are entitled to the integration

Also, all workers and employees receiving the mandated minimum wage under Wage Order No. RX-05, shall be granted the following wage increases:

- a) P 10.00/day effective December 18, 1997; and
- b) P 5.00/day, effective July 1, 1998

Section 2. To rationalize wages and facilitate compliance with the wage standards set herein, a re-grouping of the geographic areas in the region, as well as a reduction of the wage categories from 20 to 2 (agriculture and non-agriculture) is hereby made.

The new wage structure for new entrants shall thus, be as follows:

Daily Minimum Wage Region X, Northern Mindanao

Geographical Classification	Effective November 22, 1997	Effective December 18, 1997	Effective July 1, 1998
D. Cagayan de Oro City and the Municipalities of Tagoloan, Jasaan, Villanueva			
Non-Agriculture	134.00	144.00	149.00
Sugar Mills	134.00	144.00	149.00
Agriculture	124.00	134.00	139.00
E. All other cities such as Gingoog, Tangub, Oroquieta, Ozamiz and all other cities that may be created hereafter, including the municipalities of Malaybalay and Valencia			
Non-Agriculture	132.00	142.00	147.00
Sugar Mills	132.00	142.00	147.00
Agriculture	122.00	132.00	137.00
F. All other municipalities			
Non-Agriculture	127.00	137.00	142.00
Sugar Mills	127.00	137.00	142.00
Agriculture	117.00	127.00	132.00

Note: Those already receiving higher wages shall continue to receive the same.

Section 3. Staggered Payment. All establishments affected by the re-classification under this wage order and paying less than the prescribed minimum wage rate under Wage Order No. RX-05, as of November 22, 1997, shall comply by paying the difference on a staggered basis within a period of one year per ANNEX "A".

Section 4. Determination of Equivalent Monthly Minimum Wage Rates. Without prejudice to existing company practices, agreements or policies, the suggested formula herein attached as ANNEX "B" may be used as guide in determining the equivalent monthly minimum wage rates.

Section 5. 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 (8) hours a day.

RULE IV EXEMPTIONS

Section 1. Workers not covered in the Order. Not covered by 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 employing not more than ten (10) workers;
- b) Distressed establishments which include the following:
 - b1.) Stock Corporations/Cooperatives
 - b2.) Single Proprietorships/partnerships
 - b3.) Non-Stock Non-profit Organizations
 - b4.) Bank and Quasi-banks under receivership/ liquidation and under controllership/ conservatorship
- c) New Business Enterprises (NBEs) which include:
 - c1.) Agricultural establishments whether plantation or non-plantation

- c2.) Establishments with total assets after financing of Five Million Pesos (P5,000,000.00) and below
- d) Establishments adversely affected by natural calamities

Section 3. Application for Exemption. No later than sixty (60) days from the date of publication of this Rules, qualified establishments particularly, the owner/manager or duly authorized representative thereof, either through personal service or by registered mail, may file an application for exemption with the Board in three (3) typewritten copies.. 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, they may file an application for exemption with the Board not later than sixty (60) days from the date of their registration

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

1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
 - a) Date and type of calamity
 - b) Amount of losses/damages suffered as a direct result of the calamity
 - c) List of properties damaged/lost together with estimated valuation
 - d) For properties that are not insured, a statement that the same are not covered by insurance.
2. Copies of insurance policy contracts covering the properties damaged, if any.
3. Adjuster's report for insured properties.
3. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency.

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

The Board may require 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. Retail/Service Establishments Regularly Employing Not More Than Ten (10) Workers Exemption may be granted to a retail/service establishment when:
 1. It is engaged in the retail sale of goods and/or services to end users for personal or household use; and
 2. It is regularly employing not more than ten (10) workers regardless of status, except the owner/s, for at least six (6) months in any calendar year.
- B. In the case of Distressed Establishments
 1. For Stock Corporations/Cooperatives
 - a) When a deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order amounts to 20% or more of the paid-up capital for the same period; or
 - b) When an establishment registers capital deficiency i.e., negative stockholders' equity as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
 2. For Single Proprietorships/Partnerships
 - a) Single proprietorships/partnerships operating for at least two (2) years may be granted exemption:
 - a.1 When the net accumulated losses for the last two (2) full accounting periods and interim period, if any, preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review; or
 - a.2 When an establishment registers capital deficiency i.e., negative net worth as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
 - b) Single proprietorships/partnerships operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review.
 3. For Non-stock Non-profit Organizations
 - a) Non-stock non-profit organizations operating for at least two years (2) years may be granted exemption:

- a.1 When the net accumulated losses for the last two (2) full accounting periods and interim period, if any, immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period under review; or
 - a.2 When an establishment registers capital deficiency i.e., negative fund balance/members' contribution as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
- b) Non-stock non-profit organizations operating for less than two (2) years may be granted exemption when the net accumulated losses for the period immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members contribution at the beginning of the period under review.
4. For Banks and Quasi-banks
- a) Under receivership/liquidation
Exemption may be granted to a bank or quasi-bank under receivership or liquidation when there is a certification from the Bangko Sentral ng Pilipinas that it is under receivership or liquidation as provided in Section 30 of RA 7653, otherwise known as the New Central Bank Act.
 - b) Under controllership/conservatorship
A bank or quasi-bank under controllership/ conservatorship may apply for exemption as a distressed establishment under Section 3A of NWPC Guidelines 01, Series of 1996.

C. New Business Enterprises

Exemption may be granted to New Business Enterprises established outside the National Capital Region (NCR) and Export Processing Zones within two (2) years from effectivity of the Order, classified under any of the following:

- 1. Agricultural establishments whether plantation or non-plantation.
- 2. Establishments with total assets after financing of Five Million pesos (P 5,000,000.00) and below.

D. Establishments Adversely Affected by Natural Calamities

- 1. The establishment must be located in an area declared by competent authority as under a state of calamity.
- 2. The natural calamities, such as earthquakes, lahar flow, typhoons, volcanic eruptions, fire, floods and similar occurrences, must have occurred within 6 months prior to the effectivity of the Wage Order.
- 3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as of the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnerships and single proprietorships and fund balance/members' contribution in the case of non-stock non-profit organizations.

Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.

4. Where necessary, the Board or its duly-authorized representative shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

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, a partial exemption of 50% with respect to the amount or period of exemption shall be granted only in the case of distressed establishments, as follows:

- a. For corporations/cooperatives When deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order amounts to less than 20% of the paid-up capital of the same period.
- b. For single proprietorships/partnerships
When the net accumulated losses for the period under review amounts to at least 15% but less than 20% of the total invested capital at the beginning of the period under review.
- c. Non-stock non-profit organizations
When the net accumulated losses for the period under review preceding the effectivity of the Order amounts to at least 15% but less than 20% of the fund balance/members' contribution at the beginning of the period under review.

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

Section 8. Effect of Disapproved Application. In the event that an application for exemption is denied, the employees of the applicant firm shall receive the appropriate wage increases due them as provided for under this Wage Order plus a simple interest of one percent (1%) per month retroactive to the effectivity of the Order.

Section 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. The DOLE Regional Office X should also be furnished a copy of the motion for reconsideration.

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

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.

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

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

RULE V GENERAL PROVISIONS

Section 1. Compliance of Establishments whose Rates are Regulated by Law. Employers of industries whose revenues are regulated by law shall be required to comply with this 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 rate adjustments by the appropriate agency during the three (3) month period immediately preceding the issuance of this Wage Order shall be required to pay their workers and employees the minimum wage increase prescribed herein on the date this Wage Order takes effect.

Section 2. Application to Private Educational Institutions. Private educational institutions shall be required to comply with this Wage Order effective SY 1998-99, unless otherwise provided for in their current Collective Bargaining Agreement.

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 wage increase for covered workers shall be borne by the principals and the contract shall be deemed amended accordingly. In the event, however, that contractor fails to pay the prescribed rates, the construction/service contractor and principal shall be jointly and severally liable.

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 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. Application to Companies with Gainsharing Schemes. Companies with existing Productivity Gainsharing Schemes may avail of crediting under this provision upon submission and approval by the Board of the following:

- 1) A certified copy of existing Productivity Improvement Program endorsed by both the management and the workers Representative;
- 2) A copy of their existing Productivity Gainsharing Schemes.

RULE VI WAGE DISTORTION

Section 1. Effect on Existing Wage Structure. Where the application of the prescribed minimum wage increase under this Order results in distortion in the wage structure in any establishment, such distortions shall be corrected pursuant to the procedure under Art. 124 of the Labor Code as amended.

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 increase prescribed in the Wage Order.

RULE VII SPECIAL PROVISIONS

Section 1. Complaints for Non-Compliance. Complaints for non-compliance with the wage 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. Penal Provision. Any employer who fails to pay the prescribed increase under the Order shall be subjected to the penalties specified under RA 6727, as amended by RA 8188.

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 4. 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 5. 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 6. Separability Clause. If any provision herein is held invalid or unconstitutional, any other provision shall continue to be valid and effective.

Section 7. Effectivity : This Rules shall take effect on November 22, 1997.

Done in Cagayan de Oro City, Republic of the Philippines, this 18th day of November, 1997.

(SGD) FLORENCIA P. CABATINGAN
Labor Sector Representative

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

(SGD) ARSENIO L. SEBASTIAN III
Employer Sector Representative

(SGD) NINFA A. ALBANIA
Vice-Chairman

(SGD) RAYMUNDO E. FONOLLERA
Vice-Chairman

(SGD) ALAN M. MACARAYA
Chairman

Approved this 17th day of March, 1998.

(SGD) CRESENCIANO B. TRAJANO
Secretary of Labor & Employment