

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

WAGE ORDER NO. RX - 07
PROVIDING FOR NEW MINIMUM WAGE RATES
AND COST OF LIVING ALLOWANCE IN REGION X

WHEREAS, the Associated Labor Union-Trade Union Congress of the Philippines (ALU-TUCP), Northern Mindanao, filed on May 21,1999, a petition for wage adjustment of SIXTY PESOS (P60.00) across the board for all workers in Region X to cushion the impact of increases in oil prices, power rates and transportation fees;

WHEREAS, the Regional Board conducted series of consultations on productivity and wages from June 10-23,1999 in the four (4) provinces of this region including the City of Cagayan de Oro and a public hearing on October 15, 1999;

WHEREAS, the Regional Board has reviewed the current daily minimum wage rates vis-à-vis the prevailing socio-economic condition of the region pursuant to its mandate;

WHEREAS, the Board recognized 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 the competitiveness of business establishments in the area;

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

Section 1 – AMOUNT AND EFFECTIVITY OF THE NEW WAGE RATES AND THE GRANT OF COST OF LIVING ALLOWANCE. Effective fifteen (15) days from publication of this Wage Order in at least one (1) newspaper of general circulation in the region the minimum wage rates of the workers and employees in the private sector in Region X shall be as follows:

1. Class A		
Non-Agriculture	-	P160.00 per day
Agriculture	-	P150.00 per day
2. Class B		
Non-Agriculture	-	P158.00 per day
Agriculture	-	P148.00 per day
3. Class C		
Non-Agriculture	-	P153.00 per day
Agriculture	-	P143.00 per day

In addition to the adjustment in basic wage, the workers and employees receiving the minimum wage pursuant to this Wage Order in the private sector shall receive Cost of Living Allowance (COLA) of FIVE PESOS (P5.00) per day effective May 1, 2000.

The Board in its deliberation agreed to review motu proprio the grant of COLA during the second quarter of the year 2000 to assess and determine the economic condition of the region and the country as a whole albeit the economic forecast of the National Economic and Development Authority (NEDA).

Section 2 – COVERAGE. All workers and employees in the private sector in Region X who are receiving the minimum wage set by Wage Order No. RX – 06 shall be covered except household or domestic helpers and persons in the personal service of another, including family drivers.

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

Section 4 – WORKERS PAID BY RESULTS – All workers paid by results, including those who are paid on piecework, “takay”, “pakyaw”, or task basis, shall be entitled to receive the prescribed minimum wage increase and Cola per eight hours of work a day, or a proportion thereof for working less than eight (8) hours.

Section 5 – WAGES OF SPECIAL GROUPS OF WORKERS – Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in this Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new prescribed wage rates.

Section 6 – APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the minimum wage adjustment shall take effect not later than the beginning School Year 2000-2001, subject to pertinent provision of RA 6728 and other pertinent issuances.

Section 7 – APPLICATION TO CONTRACTORS – In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increase in the wage rates of the workers shall be borne by the clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed increase or new minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8 – APPLICATION TO SECTORS AND SUBSECTORS WHOSE REVENUES ARE REGULATED BY LAW AND OTHER APPROPRIATE GOVERNMENT ENTITIES. Entities whose revenues are regulated by law and other appropriate government offices shall be required to comply with this Wage Order effective upon approval of the adjustment in their rates by the concerned government agencies and instrumentalities but not later than six (6) months from the effectivity hereof, provided, that establishments granted by appropriate agencies during the three (3) months period immediately preceding this Wage Order shall comply with the minimum wage increase and COLA mandated herein on the date this Wage Order takes effect.

Section 9 – EXEMPTIONS. Upon application with and as determined by the Board in accordance with applicable rules and regulations issued by the Commission, the following may be exempted from the applicability of this Wage Order:

- a) Retail/service establishment employing not more than ten (10) workers;
- b) Distressed establishment;
- c) New business enterprise (NBEs);
- d) Establishment adversely affected by natural calamities; and

Section 10 – EFFECT OF APPLICATION FOR EXEMPTION – An application for exemption duly filed shall have the effect of deferring any action on any complaint for non-compliance with the Order until resolution of the application by the Regional Board.

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

Section 11 – APPEAL TO THE COMMISSION – Any party aggrieved by this Wage Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of this Order.

Section 12 – EFFECT OF FILING OF APPEAL – The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding increase to employees affected by the Order in the event such Order is affirmed.

Section 13 – EFFECTS ON EXISTING WAGE STRUCTURE OR WAGE DISTORTION. Where the application of the increases in the wage rates under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Art. 124 of the Labor Code as amended. Labor and management of the affected establishment are enjoined to resolve the distortion within sixty (60) days from the effectivity of this Wage Order with management having the primary responsibility of initiating the action using, whenever possible, the suggested model as may be contained in the Implementing Guidelines.

Section 14 – COMPLAINTS FOR NON-COMPLIANCE – Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 15 – NON-DIMINUTION OF BENEFITS – Nothing in this Order shall be construed to reduce any existing wage rates, allowances, and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 16 – PENAL PROVISION – Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase/allowances/rates in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 17 – PROHIBITION AGAINST INJUNCTION – No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal, or other entity against any proceedings before the Board.

Section 18 – FREEDOM TO BARGAIN – This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 19 – REPORTING REQUIREMENT – Any person, company, corporation, partnership, or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2000 and every year thereafter in accordance with the form prescribed by the Commission.

Section 20 – REPEALING CLAUSE – All laws, orders, issuances, rules, and regulations or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

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

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

Section 23 – EFFECTIVITY – This Wage Order shall take effect fifteen (15) days from its publication in at least one (1) newspaper of general circulation in the region.

APPROVED UNANIMOUSLY.

Cagayan de Oro City, Philippines, October 25, 1999.

(SGD) FLORENCIA P. CABATINGAN
Labor Representative

(SGD) ARSENIO L. SEBASTIAN III
Management Representative

(SGD) DIR. NINFA ALONG-ALBANIA
Vice-Chairman, Gov't. Sector –DTI

(SGD)REV. PRUDENCIO T. PLAZA, JR.
Management Representative

(SGD) DIR. RAYMUNDO E. FONOLLERA
Vice-Chairman, Gov't. Sector –NEDA

(SGD) ATTY. ALAN M. MACARAYA, CESO III
Chairman, Gov't. Sector - DOLE

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

RULES IMPLEMENTING WAGE ORDER NO. RX-07
PROVIDING FOR NEW MINIMUM WAGE RATES
AND COST OF LIVING ALLOWANCE 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-07.

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

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- a) "Order" refers to Wage Order No. RX-07;
- b) "Commission" refers to the National Wages & Productivity Commission;
- c) "Board" refers to the Regional Tripartite Wages & 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, Tangub and Malaybalay;
- 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 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.
- l) "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;
- m) "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location;
- n) "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;
- o) "Full Accounting Period" - refers to a period of twelve (12) months or one year of business operations;
- p) "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;
- q) "New Business Enterprises" refers to establishments, including non-profit institutions, established outside export processing zones within two (2) years from effectivity of Wage Order No. RX-07 based on the latest registration with the appropriate government agency such as SEC, DTI , CDA and the Mayor's Office.

RULE II

NEW MINIMUM WAGE RATES AND COST OF LIVING ALLOWANCE

Section 1 - Amount and effectivity of the new wage rates and the grant of cost of living allowance. Effective fifteen (15) days from publication of this Wage Order in at least one (1) newspaper of general circulation in the region, the minimum wage rates of the workers in the private sector in Region X shall be as follows:

1. Class A		
Non-Agriculture	-	P160.00 per day
Agriculture	-	150.00 per day
2. Class B		
Non-Agriculture	-	P158.00 per day
Agriculture	-	148.00 per day
3. Class C		
Non-Agriculture	-	P153.00 per day
Agriculture	-	143.00 per day

In addition to the adjustment in basic wage, the workers and employees receiving the minimum wage pursuant to this Order in the private sector shall receive Cost of Living Allowance (COLA) of FIVE PESOS (5.00) PER DAY EFFECTIVE MAY 1, 2000 subject to its review during the second quarter of year 2000 to assess and determine the economic condition forecast of the National Economic and Development Authority (NEDA) to determine whether the P5.00 COLA should be integrated within the basic wage.

Section 2 - Coverage. All workers and employees in the private sector in Region X who are receiving less than the minimum wage set by Wage Order No. RX-07 shall be covered except household or domestic helpers and persons in the personal service of another, including family drivers.

The new regional wage structure shall be as follows:

DAILY MINIMUM WAGE RATES and COLA Region X, Northern Mindanao		
GEOGRAPHICAL CLASSIFICATION	Effective Nov. 10, 1999	COLA Effective May 1, 2000
A. Cagayan de Oro City and the Municipalities of Tagoloan, Jasaan and Villanueva		
Non-Agriculture	P 160.00	P 5.00
Agriculture	150.00	5.00
B. All other cities such as Gingoog, Malaybalay, Oroquieta, Ozamiz, Tangub and other cities that may be created hereafter, including the municipality of Valencia.		
Non-Agriculture	P 158.00	P 5.00
Agriculture	148.00	5.00
C. All other municipalities		
Non-Agriculture	P 153.00	P 5.00
Agriculture	143.00	5.00
<i>Note: Sugar Mills are classified as part of Non-Agriculture</i>		

Section 3 - Basis of minimum wage rates. The minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4 - Application to sectors and subsectors whose revenues are regulated by law and other appropriate government entities. Entities whose revenues are regulated by law and other appropriate government offices shall be required to comply with this Wage Order effective upon approval of the adjustment in their rates by the concerned government agencies and instrumentalities but not later than six (6) months from the effectivity hereof, provided, that establishments granted by appropriate agencies during the three (3) months period immediately preceding this Wage Order shall comply with the minimum wage increase and COLA mandated herein on the date this Wage Order takes effect.

Section 5 - Application to private educational institutions - In the case of private educational institutions, the minimum wage adjustment shall take effect not later than the beginning School Year 2000-2001.

*Section 6 - Application to contractors.-*In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increase in the wage rates of the workers shall

be borne by the 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 minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 7 - Workers paid by results. - All workers paid by results, including those who are paid on piecework, “takay”, “pakyaw”, or task basis, shall be entitled to receive the prescribed new minimum wage and COLA per eight hours of work a day, or a proportion thereof for working less than eight (8) hours.

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

- a) Amount of increase in AMW*

$$\frac{\text{-----}}{\text{Previous AMW}} \times 100 = \% \text{ increase};$$
- b) Existing rate/piece x % increase = Increase in rate/piece;
- c) Existing rate/piece + Increase in rate/piece = Adjusted rate/piece
~~///~~ Where AMW is the applicable minimum wage rate.

The wage rates of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code, as amended and its implementing regulations.

Section 8 - Wages of special groups of workers - Wages of apprentices and learners shall in no case be less than 75 percent of the applicable minimum wage rates prescribed in the Order.

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

Section 9 - Suggested formula in determining the equivalent monthly regional 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 minimum wage rates:

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

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

Where 391.50 days :

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

- b) For those who do not work but are considered paid on rest days, special days and regular holiday

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

Where 365 days:
 302 days - Ordinary working days
 51 days - Rest days
 10 days - Regular Holidays
 2 days - Special days
 365 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 314.6 \text{ days}}{12}$$

Where 314.6 days:
 302 days - Ordinary working days
 10 days - Regular Holidays
 2.6 days - 2 Special days (if worked) x 130%
 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:

$$\text{EMR} = \frac{\text{ADR} \times 262.6 \text{ days}}{12}$$

Where 262.6 days:
 250 days - Ordinary working days
 10 days - Regular Holidays
 2.6 days - 2 Special days (if worked) x 130%
 262.6 days - Total equivalent number of days

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

Section 10 – Mobile and Branch Workers - The minimum wage rates of workers, who by nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

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

Section 11 - Transfer of Personnel - The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to the other Regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

Section 12 - Appeal to the Commission - Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

Section 13 – Effect of Appeal - The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

RULE III EXEMPTION

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) as defined under Rule I; and
- d) Establishments adversely affected by natural calamities.

Section 3 - Application for Exemption. Not later than seventy-five (75) days from date of publication of this Rules, qualified establishments particularly, the owner/manager or duly authorized representative thereof, either through personal service or by registered mail, may file an application for exemption with the Board in three (3) copies.

All applications for exemption which shall be under oath and accompanied by complete supporting documents as enumerated under Section 4, Rule III of this Rules must be filed within the 75-day period of filing. No further extension for filing and submission of the required documents shall be allowed pursuant to NWPC Resolution No.1, series of 1999.

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

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 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 III 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 evaluation;
 - d) For properties that are not insured, a statement that the same are not covered by insurance.
2. Copies of insurance policy contracts covering the properties damaged, if any;
3. Adjuster's report for insured properties;
4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency.

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

The Board may require 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 all New Business Enterprises established within Region 10:

1. Agricultural establishments whether plantation or non-plantation.
2. Establishments with total assets after financing of five million pesos (P5,000,000) 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 by the Regional Office of the Department.

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.

RULE IV SPECIAL PROVISIONS

Section 1 - Effect on Existing Wage Structure - Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct such distortions through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) 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 such distortions within sixty (60) days from the effectivity of this Wage Order with management having the primary responsibility of initiating the action using, whenever possible, the suggested model as may be contained in the Implementing Guidelines. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

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

Section 2 - Complaints for Non-Compliance - Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

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

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

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

Section 5 - Penal Provision - Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in the Order shall be punished by a fine of not less than Twenty-five thousand pesos (P25,000.00) nor more than One hundred thousand pesos (P100,000) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees. Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposable under the Act.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner.

Section 6 - Prohibition Against Injunction - No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or Boards.

Section 7 - Freedom to Bargain - The Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

In view of the increase granted by this wage order, the employers and the workers are hereby encouraged to review their wage structure taking into account this Wage Order.

Section 8 - Reporting Requirements - Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2000 and every year thereafter in accordance with the form prescribed by the Commission. Henceforth, all establishments applying for exemptions from wage orders subsequently issued by this Board shall be required to submit said document.

Section 9 - Repealing Clause - All laws, orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

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

Section 11 - Effectivity. This rules shall take effect on November 10, 1999, Cagayan de Oro City, Philippines.

APPROVED. October 25, 1999, Cagayan de Oro City, Philippines.

REV. PRUDENCIO T. PLAZA, JR.
Member, Management Representative
Representative

ARSENIO L. SEBASTIAN, III
Member, Management

MRS. FLORENCIA P. CABATINGAN
Member, Labor Representative

DIR. NINFA ALONG-ALBANIA
Vice-Chairperson, Gov't. Sector, DTI-X

DIR. RAYMUNDO E. FONOLLERA
Vice-Chairperson, Gov't. Sector, NEDA-X

ATTY. ALAN M. MACARAYA, CESO III
Chairman, Gov't. Sector, DOLE-X

Approved this 24th day of November 1999.


BIENVENIDO E. LAGUESMA
Secretary