



Republic of the Philippines  
Department of Labor and Employment  
National Wages and Productivity Commission  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD**  
Region XII, Koronadal City

**WAGE ORDER NO. RB XII-20**

**PROVIDING FOR NEW MINIMUM WAGE RATES IN REGION XII**

**WHEREAS**, under R.A. No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board - Region XII (RTWPB XII), is mandated to periodically assess the wage rates, and to conduct continuing studies in the determination of the minimum wage rates applicable in the region;

**WHEREAS**, the Board decided motu proprio to review the minimum wage in the region;

**WHEREAS**, after giving due notices to all concerned sectors, the RTWPB XII conducted a public hearing/consultation on March 20, 2018 in General Santos City;

**WHEREAS**, as a result of the review made on the prevailing socio-economic conditions of the Region, as well that of the results of the public hearing/consultation and deliberations conducted, the Board has determined the need to increase the prevailing minimum wage rates without impairing the viability of business and industry.

**WHEREAS**, the increase is consistent with the government's policy of achieving higher levels of productivity to promote economic growth, generate employment and to augment the income of workers;

**NOW, THEREFORE**, by virtue of the power and authority vested under Republic Act No. 6727, the RTWPB XII hereby issues this Wage Order:

**SECTION 1. The New Daily Minimum Wage Rates.** Upon the effectivity of this Wage Order, the new daily minimum wage shall be as follows:

Sector/Industry	Daily Minimum Wage Under Wage Order No. RB XII - 19	Basic Wage Increase	New Minimum Wage Rates
Non-Agriculture	P 295.00	P 16.00	P 311.00
Agriculture/Retail/Service Establishment	P 272.00	P 18.00	P 290.00

**SECTION 2. Coverage.** The wage rates prescribed under this Wage Order shall apply to all minimum wage workers/employees in the private sector in Region XII, regardless of their position, designation or status of employment, and irrespective of the method by which their wages are paid.

This Wage Order shall not cover the following: a) household or domestic helpers under Republic Act 10361 or the Batas Kasambahay; and, b) workers of registered Barangay Micro Business Enterprises (BMBEs) with Certificate of Authority pursuant to Republic Act No. 9178.

**SECTION 3. Basis of Minimum Wage Rates.** The minimum wage rates prescribed under this Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours of work a day.

**SECTION 4. Creditable Wage Increase/Allowances.** Wage increases granted by an employer to each worker or employee within three (3) months prior to the effectivity of this Order shall be credited as compliance herewith. In case the increases given are less than the prescribed minimum wage rates, the employer shall pay the difference.

Such creditable increases shall not include anniversary wage increases, merit wage increases, and those resulting from regularization or promotion of employees/workers, unless there is an agreement expressly allowing such crediting.

**SECTION 5. Productivity-Based Wages.** In order to sustain rising levels of

wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies or work improvement and measurement, good housekeeping, quality circles, labor management cooperation, as well as implement gain-sharing programs over and above the regular minimum wage provided. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

**SECTION 6. Application to Private Educational Institutions.** In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2017-2018 shall be considered as compliance with the prescribed increase under this Wage Order. However, payment of any shortfall shall be covered starting School Year 2018-2019.

Private educational institutions, which have not increased their tuition fees for the School Year 2017-2018 may defer compliance with the minimum wage prescribed herein until the beginning of School Year 2018-2019.

In any case, all private educational institutions shall implement the minimum wage rates prescribed herein starting School Year 2018-2019.

**SECTION 7. Application to Contractors.** In case of contracts for construction projects and for security, janitorial and similar services, the increase in the prescribed minimum wage rates under this Wage Order shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly as mandated under the Labor Code.

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 8. Workers Paid By Result.** All workers paid by result, including those who are paid on piecework, "takay," "pakyaw" or task basis, shall be entitled to receive not less than the prescribed minimum wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

**SECTION 9. 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 Wage Order based on R.A. 7796 or otherwise known as the Technical Education and Skills Development Act of 1994.

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

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

**SECTION 10. Exemptions.** Upon application with and as determined by the Board based on documentation and other requirements in accordance with applicable rules and regulations issued by the National Wages and Productivity Commission, the following may be exempted from the applicability of this Order:

1. Retail/Service establishments regularly employing not more than ten (10) workers; and,
2. Establishments adversely affected by calamities such as natural and human-induced disasters.

**SECTION 11. Effect of Application for Exemption.** Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance thereto shall be deferred pending its resolution. In the event that the application for exemption is not granted, the applicant firm shall pay the appropriate compensation due to the covered workers as provided for in this Wage Order plus interest of one percent (1%) per month, retroactive from the effectivity of this Wage Order.

**SECTION 12. Effects on Existing Wage Structure.** Where the application of the increases or adjustments in the prescribed minimum wages rates under this Wage Order results in distortion in the wage structure within the establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code of the Philippines, as amended.

**SECTION 13. Freedom to Bargain.** This Wage Order shall not be construed to prevent workers from bargaining for higher wages with their respective employers.

**SECTION 14. Complaints for Non-Compliance.** Complaints for non-compliance with this Wage Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) having jurisdiction over the workplace and shall be subject to the mandatory thirty (30) days conciliation and mediation process under Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Article 128 of the Labor Code of the Philippines, as amended.

**SECTION 15. Non-Diminution of Benefits.** Nothing in this Wage Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, and executive orders or under any contract or agreement between workers and employers.

 **SECTION 16. Appeal to the Commission.** Any party aggrieved by this Wage Order may file a verified appeal to the National Wages and Productivity Commission through the Board within ten (10) calendar days from the publication of this Wage Order.

**SECTION 17. Effects of Filing of Appeal.** The filing of the appeal does not operate to stay this Wage Order unless the party appealing this Wage Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding wage adjustment to employees affected by this Wage Order in the event that this Wage Order is affirmed.

 **SECTION 18. Penal Provision.** Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed minimum wage rates in accordance with this Wage Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

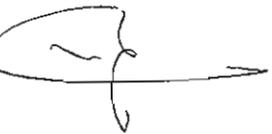
 **SECTION 19. Prohibition Against Injunction.** No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Regional Tripartite Wages and Productivity Board.

**SECTION 20. 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, 2019 and every year thereafter in accordance with Section 3 of RA 6727 in relation to Article 124 of the Labor Code, as amended, and in the form as prescribed by the Commission.

 **SECTION 21. Repealing Clause.** All orders, issuances, rules and regulations, or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed, amended or modified accordingly.

**SECTION 22. Separability Clause.** If, for any reason, any section or provision of this Wage Order is declared unconstitutional or illegal, the other provisions or parts hereof shall remain valid.

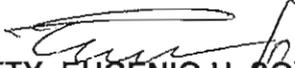
 **SECTION 23. Implementing Rules and Regulations.** The Board shall submit to the Commission the necessary rules and regulations to implement this Wage Order subject to the approval of the Secretary of Labor and Employment not later than ten (10) days from the publication of this Wage Order.

 **SECTION 24. Effectivity.** This Wage Order shall take effect fifteen (15) days after its publication in a local newspaper of general circulation in the region.



Approved,

, Koronadal City, Philippines

  
**ATTY. EUGENIO U. SOYAO**  
Employers' Representative

  
**SIMPLICIO H. VILLARTA JR.**  
Workers' Representative

  
**WARREN GREGORIO A. MANILAY**  
Employers' Representative

  
**JOEMARIE P. ANGELES**  
Workers' Representative

  
**ARTURO G. VALERO**  
NEDA Director  
Vice-Chairperson

  
**IBRAHIM K. GUIAMADEL**  
DTI Director  
Vice-Chairperson

  
**SISIMIO B. CANO, CESO IV**  
DOLE Director  
Chairperson



Republic of the Philippines  
Department of Labor and Employment  
National Wages and Productivity Commission  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD**  
Region XII, Koronadal City

**RULES IMPLEMENTING WAGE ORDER NO. RB XII – 20**

Pursuant to Section 6, Rule IV of the NWPC Amended Rules of Procedure on Minimum Wage Fixing and Section 23 of Wage Order No. RB XII - 20, the following rules are hereby issued for guidance and compliance by all concerned:

**RULE I  
GENERAL PROVISIONS**

**Section 1. Title.** This Rules shall be known as the “Rules Implementing Wage Order No. RB XII -20.”

**Section 2. Construction.** This Rules shall be liberally construed to carry out the objectives of RA 6727 and those existing laws and their rules and regulations on wages and other labor standards relating to hours of work, productivity, and other welfare benefits, including collective bargaining and negotiations.

**Section 3. Definition of Terms.** As used in this Rules:

“**Order**” refers to Wage Order No. RB-XII-20 promulgated by the Board pursuant to its wage fixing authority;

“**Board**” refers to the Regional Tripartite Wages and Productivity Board in Region XII;

“**Department**” refers to the Department of Labor and Employment;

“**Commission**” refers to the National Wages and Productivity Commission;

“**Secretary**” refers to the Secretary of the Department of Labor and Employment;

“**Regional Office**” refers to the office of the Department of Labor and Employment in the region;

“**Region XII**” covers the Cities of Cotabato, General Santos, Kidapawan, Koronadal and Tacurong; and, the Provinces of North

Cotabato, Sarangani, South Cotabato, and Sultan Kudarat as provided for in Executive Order No. 36, Series of 2001;

"RA 6727" means Republic Act No. 6727;

"Wage" shall mean the remuneration of earnings, however, designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the same, which is payable by an employer to an employee under a written or unwritten contract of employment for work done or to be done, or for services rendered and includes the fair and reasonable value, as determined by the Secretary of Labor, of board, lodging, or other facilities customarily furnished by the employer to the employee. "Fair and reasonable value" shall not include any profit to the employer or to any person affiliated with the employer;

"Basic Wage" means all the remuneration or earnings paid by an employer to worker for services rendered on normal working days and hours, but does not include cost of living allowances, profit, sharing investments, premium payments, 13<sup>th</sup> month pay and other monetary benefits, which are not considered as part of or integrated into the regular salary;

"Minimum Wage" refers to the lowest wage that an employer can pay his/her workers as fixed by the Board which may consist of the basic wage only or the sum of the basic wage and COLA, if there is any;

"Minimum Basic Wage" means the lowest basic wage fixed by the Board that an employer should pay his/her workers or employees for services rendered on normal working days and hours;

"Wage Distortion" means a situation where the application of 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;

"Agriculture" refers to farming in all its branches and among others, includes the 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 other 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, abaca, tobacco, pineapple, aquatic or other farm products;



**“Non-Agriculture Enterprises”** refers to establishments or industries other than agricultural enterprises;

**“Establishment”** refers to one principally engaged in one or predominantly one kind of economic activity at a single fixed location;

**“Retail Establishment”** refers to 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;

**“Service Establishment”** refers to one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such;

**“Establishments Adversely Affected by Calamities such as Natural and Human-Induced Disasters”** refers to establishments which meet the criteria enumerated in Section 1, Rule IV of this Rules.

**“State of Calamity”** refers to a condition involving mass casualty and/or major damages to property, disruption of means of livelihoods, roads and normal way of life of people in the affected areas as a result of the occurrence of a natural or human-induced hazard (Section 3 of RA 10121, “Philippine Disaster Risk Reduction and Management Act of 2010).

**“Hazard”** refers to a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood or services, social and economic disruption, or environmental damage; any potential threat to public safety and/or public health; any phenomenon which has the potential to cause disruption or damage to people, their property, their services or their environment, i.e. their communities. The four classes of hazards are natural, technological, biological and societal hazards. (National Disaster Risk Reduction and Management Council NDRRMC)

**“Disaster”** refers to a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources; an actual threat to public health and safety where the local government and emergency services are unable to meet the immediate needs of the community; an event in which the local emergency management measures are insufficient to cope with a hazard, whether due to a lack of time, capacity or resources, resulting in unacceptable levels of damage or number of casualties.

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**RULE II  
NEW MINIMUM WAGE RATES**

**SECTION 1. The New Daily Minimum Wage Rates.** Upon the effectivity of the Wage Order, the new daily minimum wage shall be as follows:

Sector/Industry	Daily Minimum Wage Under Wage Order No. RB XII-19	Basic Wage Increase	New Minimum Wage Rates
Non- Agriculture	P 295.00	P 16.00	P 311.00
Agriculture/Retail/Service Establishment	P 272.00	P 18.00	P 290.00

**Section 2. Coverage.** The new minimum wage rates in the Order shall apply to minimum wage workers and employees in the private sector in the region, regardless of position, designation, or status of employment and irrespective of the methods by which their wages are paid.

Not covered by the Order are the following: a) household or domestic helpers under Republic Act 10361 or the Batas Kasambahay; and, b) workers of registered Barangay Micro Business Enterprises (BMBEs) with Certificate of Authority pursuant to Republic Act No. 9178.

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

**Section 4. Suggested Formula in Determining the Equivalent Monthly Regional Minimum Wage Rates.** Without prejudice to existing company practices, agreements or policies, the following formulae may be used as guides in determining the equivalent monthly minimum wage:

**A. For the Cities of General Santos and Koronadal and the Provinces of Sarangani and South Cotabato:**

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

$$\text{Equivalent Monthly} = \text{Applicable Daily Wage Rate (ADR)} \times 393.50 \text{ days}$$



246	days -	Ordinary working days
12	days -	Regular holidays
3	days -	3 special days (if worked x 130%)
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261	days -	Total equivalent number of days

**B. For the Cities of Cotabato, Kidapawan and Tacurong and the Provinces of North Cotabato and Sultan Kudarat:**

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

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 396.50 \text{ days}}{12}$$

Where 396.50 days:

295	days -	Ordinary working days
24	days -	12 regular holidays x 200%
6	days -	3 Muslim Legal Holidays x 200%
67.60	days -	52 rest days x 130%
3.90	days -	3 special days x 130%
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396.50	days -	Total equivalent number of days

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

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

Where 365 days:

295	days -	Ordinary working days
52	days -	Rest days/Sundays
12	days -	Regular holidays
3	Days	Muslim Legal Holidays
3	days -	Special days
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365	days -	Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 313 \text{ days}}{12}$$

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Where 313 days:

295	days - Ordinary working days
12	days - Regular holidays
3	days - Muslim Legal Holidays
3	days - 3 special days
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313	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:

$$\text{EMR} = \frac{\text{ADR} \times 261 \text{ days}}{12}$$

Where 261 days:

243	days - Ordinary working days
12	days - Regular holidays
3	days - Muslim Legal Holidays
3	days - 3 special days
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261	days - Total equivalent number of days

**Section 5. Productivity Based Wages.** In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement gain-sharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

Pursuant to the Two-Tiered Wage System, Wage Advisory No. RBXII-01, Series of 2017 has been issued to guide private establishments in the formulation, adoption and implementation of productivity program and performance and productivity-based incentive schemes that an enterprise may provide based on agreement between workers and management.

**Section 6. Creditable Wage Increase/Allowances.** Wage increases granted by an employer to each worker or employee within three (3) months prior to the effectivity of the Order shall be credited as compliance herewith. In case the increases given are less than the prescribed minimum wage rates, the employer shall pay the difference.

Such creditable increases shall not include anniversary wage increases, merit wage increases, and those resulting from regularization or promotion of employees/workers, unless there is an agreement expressly allowing such crediting.

**RULE III  
PROVISIONS TO SPECIFIC GROUP OF WORKERS**

**Section 1. Application to Private Educational Institutions.** In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2017-2018 shall be considered as compliance with the increase set forth under the Order. However, payment of any shortfall in the minimum wage rates set forth in the Order shall be covered starting School Year 2018-2019.

Private educational institutions, which have not increased their tuition fees for the School Year 2017-2018, may defer compliance with the provisions of the Order until the beginning of School Year 2018-2019.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2018-2019.

**Section 2. Application to Contractors.** In case of contracts for construction projects and for security, janitorial and similar services, the increase in the prescribed minimum wage rates under the Order shall be borne by the principal or client of the contractor and the contract shall be deemed amended accordingly as mandated under the Labor Code.

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 3. Workers Paid by Result.** All workers paid by result, including those who are paid on piecework, "takay," "pakyaw" or task basis, shall be entitled to not less than the prescribed minimum wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

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

- a)  $\frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}}$
- 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.

**Section 4. 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 the Order based on R.A. 7796 or otherwise known as the Technical Education and Skills Development Act of 1994.

All recognized learnership and apprenticeship agreements entered into before

the effectivity of the Wage Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the prescribed wage rates.

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed in the Order pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

**Section 5. 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 6. 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.

#### **RULE IV EXEMPTION**

**Section 1. Who May Be Exempted.** Upon application with and as determined by the Board based on documentation and other requirements in accordance with applicable rules and regulations issued by the Commission, the following may be exempted from the applicability of this Order.

- i. Retail/Service establishments regularly employing not more than ten(10) workers; and,
- ii. Establishment adversely affected by calamities such as natural and human-induced disasters.

#### **A. CRITERIA FOR EXEMPTION**

To determine whether an applicant establishment is qualified for exemption, the following criteria shall be used:

1. Retail/Service establishments regularly employing not more than ten (10) workers

Exemption may be granted to a retail/service establishment when:

- a. It is engaged in the retail sale of goods and/or services to end users for personal or household use; and
- b. 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.

2. Establishments Adversely affected by Calamities such as Natural and/or Human Induced Disasters:

- a. The establishment must be located in an area declared by a competent authority as under a state of calamity.
- b. The calamity must have occurred within six (6) months prior to the effectivity of this Wage Order. However, if based on the assessment by a competent authority, the damage to properties is at least 50% and the period of recovery will exceed one (1) year, the 6-month period may be extended to one (1) year.
- c. 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 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.
- d. Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.

**B. DOCUMENTS REQUIRED**

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

*FOR ALL CATEGORIES OF EXEMPTION:*

Proof of notice of filing of the application to the President of the union/contracting party if one is organized in the establishment, or if there is no union, a copy of a circular giving general notice of the filing of the application to all the workers in the establishment. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

- 1. Retail/Service establishments regularly employing not more than ten(10) workers
  - a. Affidavit from employer stating the following:
    - i. It is a retail/service establishment; and,
    - ii. It is regularly employing not more than ten (10) workers

for at least six (6) months in any calendar year.

- b. Business Permit for the current year from the appropriate government agency.
2. Establishments Adversely affected by Calamities such as Natural and/or Human Induced Disasters:
- a. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
    - i. Date and type of calamity;
    - ii. Amount of losses/damages suffered as a direct result of the calamity;
    - iii. List of properties damaged/lost together with estimated valuation; and,
    - iv. For properties that are not insured, a statement that the same are not covered by insurance.
  - b. Copies of insurance policy contracts covering the properties damaged, if any.
  - c. Adjuster's report for insured properties.
  - d. Audited financial statements for the last full accounting period preceding the effectivity of the Wage Order stamped "received" by the appropriate government agency.
  - e. In case of severe damage to properties caused by the calamity, a Certification by the Barangay and pictures of the property/ies may be submitted in lieu of the audited financial statements.
  - f. The Board may require the submission of other pertinent documents to support the application for exemption."

**Section 2. Application for Exemption.** Within seventy-five (75) days from the date of publication of this Rules, an application for exemption shall be filed with the Board in three (3) legible copies by the owner/manager or duly authorized representative of an establishment either through personal service or by registered mail provided that all the required documents in support of the application must be filed within the said 75-day filing period and that no further extension of filing and submission of required documents shall be allowed. The date of mailing shall be deemed as the date of filing.

filing of an application for exemption, the Board may re-open the same.

The applicant shall also submit a certification that a general assembly to explain to its workers and employees its intent to file an application for exemption has been conducted prior to the filing of the application and an undertaking to conduct another general assembly informing its workers and employees of the decision of the Board on its application.

Applications for exemption filed with the DOLE regional district or provincial offices are considered filed with the appropriate Board in the Region.

The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 1B, Rule IV.

**Section 3. Duration and Extent of Exemption.** Full exemption of one (1) year from effectivity of the Order shall be granted to all covered establishments that meet the applicable criteria for exemption under Section 1A, Rule IV of this Rules.

In the absence of such actual losses, the company shall pay its workers the wage increases due them under the Order, retroactive to the effectivity of the Order.

**Section 4. Action on Application for Exemption.** Upon receipt of an application with complete documents, the Board shall take the following steps:

- a. Notify the DOLE Regional Office having jurisdiction over the workplace of the pendency of the application requesting that action on any complaint for non-compliance with the Order be deferred pending resolution of the application by the Board;
- b. Request the DOLE Regional Office to conduct ocular inspection, if necessary, of establishments applying for exemption to verify number of workers, nature of business and other relevant information.
- c. Act and decide on the application for exemption with complete documents, as much as practicable, within 45 days from the date of filing. In case of congested application, the Board may conduct conciliation or call hearings thereon.
- d. Transmit the decision of the Board to the applicant establishment, the workers or president of the union, if any, and the Commission, for their information; and the DOLE Regional Office concerned, for their implementation/enforcement.

The Board may create a Special Committee with one representative from each sector to expedite processing of applications for exemption.

**Section 5. Effect of Application for Exemption.** Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance thereto shall be deferred pending its resolution. In the event that the application for exemption is not granted, the applicant firm shall pay

the appropriate compensation due to the covered workers as provided for in the Order plus interest of one percent (1%) per month, retroactive from the effectivity of the Order.

**Section 6. Workers' Opposition.** Any worker or, if unionized, the union in the applicant establishment, may file with the Board within fifteen (15) days from receipt of the notice of the application, an opposition to the application for exemption stating the reasons why the application should not be approved, furnishing the applicant a copy thereof. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

**Section 7. Motion for Reconsideration.** The aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.

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 8. Appeal to the Commission.** 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, 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.

**Section 9. Grounds for Appeal.** An appeal may be filed on the following grounds:

- a. Non-conformity with the prescribed guidelines and/or 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

### WAGE DISTORTION, WAGE AGREEMENTS, AND WAGE ADMINISTRATION

**Section 1. Effect on Existing Wage Structure.** Where the application of the adjustment prescribed under the Order results in distortion in the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code of the Philippines, as amended.

Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortion 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, the voluntary arbitrator shall decide the dispute within ten (10) calendar days from the time said dispute is referred to voluntary arbitration.

In cases where there are no Collective Bargaining Agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board (NCMB) 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 any increase prescribed in the Order.

**Section 3. 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.

**Section 4. Complaints for Non-Compliance.** Complaints for non-compliance with the Wage Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) having jurisdiction over the workplace and shall be subject to the mandatory thirty (30) days conciliation and mediation process under Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Article 128 of the Labor Code of the Philippines, as amended.

**Section 5. Non-Diminution of Benefits.** Nothing in the Order and in these 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.

## RULE VI SPECIAL PROVISIONS

**Section 1. Appeal on Wage Order.** Any party aggrieved by the Order may file a verified appeal with the Commission through the Board 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. A memorandum of appeal, which shall state the grounds, relied upon, and the arguments in support of the appeal shall accompany the appeal.

**Section 2. Effects 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 wage adjustment to employees affected by the Order, in the event such Order is affirmed.

**Section 3. Penal Provision.** Pursuant to Section 12, RA 6727, as amended by Republic Act No.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 criminal liability imposable under the abovementioned 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 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 proceedings before the Board as provided for under Article 126 of the Labor Code as amended.

**Section 5. 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, 2019 and every year thereafter in accordance with the form as prescribed by the Commission.

**Section 6. Repealing Clause.** All orders, issuances, rules and regulations, or parts thereof inconsistent with the provisions of the Order are hereby repealed, amended or modified accordingly.

**Section 7. Separability Clause.** If, for any reason, any section or provision of the Order is declared unconstitutional or illegal, the other provisions or parts hereof shall remain valid.

**Section 8. Effectivity.** This Rules shall take effect on \_\_\_\_\_.

*A. G. P. ...*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

Approved,

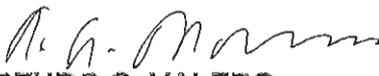
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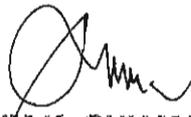
  
**ATTY. EUGENIO U. SOYAO**  
Employers' Representative

  
**SIMPLICIO H. VILLARTA JR.**  
Workers' Representative

  
**WARREN GREGORIO A. MANILAY**  
Employers' Representative

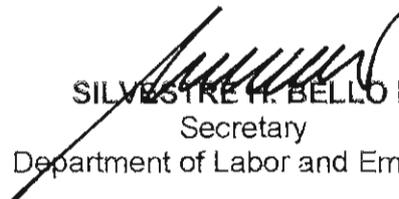
  
**JOEMARIE P. ANGELES**  
Workers' Representative

  
**ARTURO G. VALERO**  
NEDA Director  
Vice-Chairperson

  
**IBRAHIM K. GUIAMADEL**  
DTI Director  
Vice-Chairperson

  
**SISIMO B. CANO, CESO IV**  
DOLE Director  
Chairperson

APPROVED this 9th day of May 2018, in the City of Manila, Philippines.

  
**SILVESTRE H. BELLO III**  
Secretary  
Department of Labor and Employment