

Republic of the Philippines  
Department of Labor and Employment  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD**  
**Regional Board IV-B**

**WAGE ORDER NO. RBIV-B-01**  
**PRESCRIBING A NEW WAGE STRUCTURE AND**  
**PROVIDING NEW MINIMUM WAGE RATES IN MIMAROPA**

**WHEREAS**, the Regional Tripartite Wages and Productivity Board (RTWPB) is mandated by law to rationalize wage fixing in the Region taking into account the prevailing economic condition affecting the cost of living of wage earners, the sustainable viability of business and industry, and the imperatives of socio-economic development of the region;

**WHEREAS**, consistent with the government's policy of achieving higher levels of productivity to promote economic growth and generate employment, and to augment the income of workers, there is need to build the capacity of business enterprises to be competitive through productivity improvement and gain sharing programs;

**WHEREAS**, consistent with the policy of providing workers with safety net protection against unduly low wages, the Board recognizes the need to review the current minimum wage levels which have not been adjusted since 2002;

**WHEREAS**, Region IV-B was created in 2002 under Executive Order No. 103 to promote efficiency in the public service and accelerate social and economic development in the region comprising the provinces of Marinduque, Mindoro Occidental, Oriental Mindoro, Palawan, Romblon and the cities of Calapan and Puerto Princesa, otherwise known as MIMAROPA;

**WHEREAS**, RTWPB IV-B, after due notice to all concerned sectors, conducted *motu proprio* a public hearing and series of consultations/dialogues with employers' and workers' groups, local government officials and other interested parties in the region to determine whether a wage order should be issued, to wit: public hearing in Quezon City on May 27, 2005 and consultation/dialogues in Batangas City, Puerto Princesa City, and Calapan City, Oriental Mindoro with active participation of the members of the Tripartite Industrial Peace Council (TIPC).

**WHEREAS**, there is a need to grant minimum wage adjustment to workers in MIMAROPA to help them cope with the rising cost of living due to erosion of purchasing power vis-à-vis increase in prices of basic goods and services including transportation fare as a result of adjustments in prices of oil and other petroleum products, without detriment to the productivity and viability of business and industry therein;

**WHEREAS**, it is an opportune time to adopt a new wage structure suitable for MIMAROPA in its first Wage Order taking into account existing income level differentiation among cities, provinces and municipalities, number and size of establishments and number of workers who will benefit from the minimum wage adjustment and other relevant socio-economic factors;

**WHEREAS**, the Board agreed to simplify the wage structure of the cities and provinces/municipalities in the region;

**NOW, THEREFORE**, the **REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD, REGION IV-B**, by virtue of the power granted to it under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, hereby issues this Wage Order;

**SECTION 1. AMOUNTS OF INCREASE.** Upon effectivity of this Wage Order the existing minimum wage rates in MIMAROPA based on the new classification shall be increased as follows:

SECTOR	AREAS			
	Cities of Puerto Princesa and Calapan		Rest of the Region Including San Jose, Occidental Mindoro and Sta. Cruz, Marinduque	
	Upon Effectivity of Wage Order No. RBIV-B-01	Effective Jan. 1, 2006	Upon Effectivity of Wage Order No. RBIV-B-01	Effective Jan. 1, 2006
Non-Agriculture	P 10.00	P 10.00	P 10.00	P 5.00
Agriculture	P 10.00	-	P 10.00	-
Plantation				
Non-Plantation				
Cottage and Micro Enterprises	P 5.00	-	P 5.00	-
Retail Service Employing Not More Than Ten (10) Workers	P 5.00	-	P 5.00	-

**SECTION 2. NEW MINIMUM WAGE RATES:**

The minimum wage rates in MIMAROPA shall be as follows:

SECTOR	AREAS			
	Cities of Puerto Princesa and Calapan		Rest of the Region Including San Jose, Occidental Mindoro and Sta. Cruz, Marinduque	
	Upon Effectivity of Wage Order No. RBIV-B-01	Effective Jan. 1, 2006	Upon Effectivity of Wage Order No. RBIV-B-01	Effective Jan. 1, 2006
Non-Agriculture	P 206.00	P 216.00	P 206.00* P 192.00*	P 211.00 P 197.00
Agriculture				
Plantation	P 186.00		P 177.00	
Non-Plantation	P 166.00		P 157.00	
Cottage and Micro-Enterprises	P 169.00		P 160.00	
Retail Service Employing Not More Than Ten (10) Workers	P 111.00		P 109.00	

- \* Existing employees in San Jose, Occidental Mindoro and Sta. Cruz, Marinduque – workers/employees hired before the effectivity of Wage Order RBIVB-01.
- \*\* New employees in the rest of the region including San Jose, Occidental Mindoro and Sta. Cruz, Marinduque – workers/employees hired on or after the effectivity of Wage Order RBIVB-01.

**SECTION 3. COVERAGE.** This new minimum wage order shall apply to all minimum wage workers and employees in the private sector in the region, regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid.

This Order shall not apply to household or domestic helpers, including family drivers and persons in the personal services, and workers of registered Barangay Micro-Business Enterprises with Certificate of Authority.

**SECTION 4. BASIS OF MINIMUM WAGE RATES.** The minimum wage rates prescribed under this Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

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 rate for eight (8) normal working hours a day, or a portion thereof for working less than eight (8) hours.

**SECTION 5. APPLICATION FOR SPECIAL GROUPS OF WORKERS.** Apprentices and learners shall receive not less than seventy-five (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 PRODUCTIVITY BASED WAGES.** In order to sustain rising levels of wages and enhance competitiveness, business are encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement productivity 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;

**SECTION 7 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 2005-2006 shall be considered as compliance with the minimum wage rates prescribed in this Order. However, payment of any shortfall in the minimum wage rates set forth in the Order shall be covered starting School Year 2006-2007;

Private educational institutions, which did not increase their tuition fees for the School Year 2005-2006, may defer compliance with the provisions of this Order until School Year 2006-2007.

In the case, all private educational institutions shall implement the minimum wage rate prescribed herein starting School Year 2005-2006.

**SECTION 8. APPLICATION TO CONTRACTORS.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates for covered workers shall be borne by the principal or clients of the construction/service contractors and the contract shall be deemed amended accordingly. If the principal or client fails to pay the prescribed minimum wage rates, the construction/service contractor shall be jointly and severally liable with the principal or client.

**SECTION 9. EXEMPTIONS.** The following categories of establishments may be exempted upon application with and as determined by the Board in accordance with the NWPC Guidelines No. 01 Series of 1996 (NWPC Revised Guidelines on Exemption):

- a. Distressed Establishments;
- b. New Business Establishments which started operations on or before January 1, 2005;
- c. Establishments adversely affected by calamities;
- d. Retail/Service establishments regularly employing not more than ten (10) workers.

All applications for exemption from compliance with this Order shall be filed within seventy-five (75) days from the date of publication of the Rules Implementing the Wage Order.

In the case of New Business Enterprises, applications shall be filed not later than sixty (60) days from the date of registration.

**SECTION 10. EFFECT OF APPLICATION FOR EXEMPTION.** Whenever an application for exemption is filed with the Board, action on any complaint for non-compliance with this Order shall be deferred pending resolution of the said application.

If an application for exemption is not granted, the employees of the applicant firm shall receive the appropriate compensation due them as provided for in this Order plus one percent (1%) interest a month retroactive to the effectivity of this Order.

**SECTION 11. APPEAL TO THE COMMISSION.** Any party aggrieved by the 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 AN 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. CREDITABLE WAGE INCREASE.** Wage increases granted by an employer in an organized establishment within three (3) months prior to the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein, if expressly provided for and agreed upon in a collective bargaining agreement.

In an organized establishment, wage increases granted by the employer within three (3) months prior to the effectivity of this Order shall be credited as compliance therewith.

If such increases are less than the prescribed minimum wage increase herein, the employer shall pay the difference. Such increases shall not include anniversary wage increases, merit wage increase and those resulting from the regularization or promotion of employees.

**SECTION 14. EFFECT ON EXISTING WAGE STRUCTURE.** Where the application of the wage increase prescribed in this Order results in distortion in the wage structure within the establishment, it shall be corrected in accordance with the procedure under Article 124 of the Labor Code, as amended.

**SECTION 15. NON-DIMINUTION OF BENEFITS.** Nothing in this Order shall be construed to reduce to reduce any existing wage rate, allowance or other benefit under existing laws, decrees, issuance and executive orders or under any contract or agreement between workers and employers.

**SECTION 16. PENAL PROVISION.** Any employer who refuses or fails to pay the minimum wage rate prescribed under this Order shall be subject to the penalties imposed under R.A. 6727, as amended by R.A. 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. REPEALING CLAUSE.** All laws, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed or modified accordingly.

**SECTION 19. SEPARABILITY CLAUSE.** If for any reason, any section or provision of this Order declared unconstitutional or illegal, the other provisions or parts shall remain valid.

**SECTION 20. IMPLEMENTING RULES.** The Regional Board shall prepare the implementing rules of this Order subject to the approval of the Secretary of the Department of Labor and Employment.

**SECTION 21. EFFECTIVITY.** This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved this 27<sup>th</sup> day of May, 2005 in Quezon City, Philippines.

<b>BENJAMIN P. BASQUÑAS, JR.</b> Worker Representative	<b>JAUNITO S. FACUNDO</b> Worker Representative
<b>RENATO B. ALMEDA</b> Employer Representative	<b>LUCILA C. CASTILLO-TARRIELA</b> Employer Representative
<b>OSKAR D. BALBASTRO</b> Vice-Chairman (NEDA)	<b>NELLY F. VILLAFUERTE</b> Vice-Chairman (DTI)
<b>GRACE Y. URSUA</b> Chairman	

Republic of the Philippines  
Department of Labor and Employment  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD**  
**Regional Board IV-B**

**RULES IMPLEMENTING WAGE ORDER NO. RBIV-B-01**

Pursuant to Section 5, Rule IV of the National Wages and Productivity Commission (NWPC) Revised Rules of Procedure on Minimum Wage Fixing, and Section 20 of Wage Order No. RB IV-B-01, the following rules are hereby issued for the guidance and compliance of all concerned.

**RULE 1 – GENERAL PROVISIONS**

**SECTION 1. TITLE.** This Rules shall be known as "Rules Implementing Wage Order No. RBIV-B-01";

**SECTION 2. DEFINITION OF TERMS.** As used in this Rules:

- (a) "Order" means Wage Order No. RBIV –B-01.
- (b) "Board" means the Regional Tripartite Wages and Productivity Board of Region IV-B.
- (c) "Commission" means the National Wages and Productivity Commission.
- (d) "Department" means the Department of Labor and Employment.
- (e) "Region IV-B" covers the Provinces of Occidental Mindoro, Oriental Mindoro, Marinduque, Romblon, Palawan, and the Cities of Calapan and Puerto Princesa; otherwise known as MIMAROPA.
- (f) "Minimum Wage Rates" refer to the minimum wage rates, as fixed by the Board, that an employer is obliged to pay his workers.
- (g) "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 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.
- (h) "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than twenty four (24) hectares in a locality or which employs at least twenty (20) workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprise".
- (m) "Cottage and Micro Enterprises" refer to business activities or enterprises engaged in industry, agribusiness and/or services whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value of above P150,000.00 to P1,500,00.00 for Cottage Enterprises and P150,000.00 and below for Micro Enterprises.
- (n) "Barangay Micro Business Enterprise" refers to any business entity or enterprises granted a Certificate of Authority under Republic Act No. 9178.
- (o) "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.

- (p) "Service Establishment" refers to one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such.
- (q) "Transferred Workers" refer to those workers or employees affected by the movement of personnel from the head office to a branch office or from one branch office to another in an equivalent rank or level without break in service.
- (r) "Mobile employees" refer to those employees who, by the nature of their work, have to travel.
- (s) "New Business Enterprises" refer to establishments including non-profit institution whose operation started on January 1, 2005 and thereafter, during the effectivity of this Wage Order based on their registration with the appropriate government agency such as, Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI), Cooperative Development Authority (CDA), and Mayor's Office.
- (t) "Calamities" – refer to natural calamities, such as earthquakes, lahar flow, fire, typhoons, severe draught brought by El Nino, floods and similar occurrences that adversely affect the operation of the establishments and must have occurred within six (6) months prior to the effectivity of the Wage Order.

## RULE II – NEW MINIMUM WAGE RATES

**SECTION 1. AMOUNT OF INCREASE.** Effective 17 June 2005, all existing minimum wage rates in MIMAROPA based on the new classification shall be increased as follows:

SECTOR	AREAS			
	Cities of Puerto Princesa and Calapan		Rest of the Region including San Jose, Occ. Mindoro and Sta. Cruz, Marinduque	
	Effective 17 June 2005	Effective 1 Jan. 2006	Effective 17 June 2005	Effective 1 Jan. 2006
Non- Agriculture	P 10.00	P 10.00	P 10.00	P 5.00
Agriculture	P 10.00	-	P 10.00	-
Plantation				
Non-Plantation				
Cottage and Micro Enterprises	P 5.00	-	P 5.00	-
Retail/Service Estab. Employing Not More Than 10 Workers	P 5.00		P 5.00	

**SECTION 2. NEW MINIMUM WAGE RATES.** The new daily minimum wage rates in MIMAROPA shall be as follows:

SECTOR/INDUSTRY	Cities of Puerto Princesa and Calapan		Rest of the Region including San Jose, Occ. Mindoro and Sta. Cruz, Marinduque	
	Effective 17 June 2005	Effective 01 Jan. 2006	Effective 17 June 2005	Effective 01 Jan. 2006
<b>NON-AGRICULTURE</b>	P 206.00	P 216.00	P 206.00* P192.00**	P 211.00 P197.00
<b>AGRICULTURE</b>				
Plantation	P 186.00		P 177.00	
Non-Plantation	P 166.00		P 157.00	
<b>COTTAGE &amp; MICRO ENTERPRISES</b>	P 169.00		P 169.00* P 160.00**	
<b>RETAIL/SERVICE ESTABLISHMENTS</b>				
Employing not more than 10 workers	P 111.00		P 109.00	

\* Existing Employees in San Jose Occidental Mindoro and Sta. Cruz Marinduque –workers/employees hired before June 17, 2005.

\*\* New Employees in San Jose Occidental Mindoro and Sta. Cruz Marinduque - workers/employees hired on or after June 17, 2005.

**SECTION 3. COVERAGE.** The minimum wage rates prescribed under the Order shall apply to all minimum wage workers and employees in the private sector in the Region regardless of their position, designation or status, and irrespective of the method by which their wages are paid, except household or domestic helpers, persons in the personal service of another including family drivers, and workers of registered Barangay Micro Business Enterprises with Certificates of Authority pursuant to Republic Act No. 9178.

**SECTION 4. BASIS OF MINIMUM WAGE RATES.** The minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight hours work a day.

**SECTION 5. APPLICATION TO WORKERS PAID BY RESULTS.** All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the applicable minimum wage rates prescribed under the Order for the normal working hours which shall not exceed eight hours work a day, or a proportion thereof for work or less than the normal working hours.

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

- |   |   |                  |   |                         |
|---|---|------------------|---|-------------------------|
| a) $\frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}}$ | X | 100              | = | % increase;             |
| b) Existing rate/piece  | X | % increase       | = | Increase in rate/piece; |
| c) Existing rate/piece  | + | Increase in rate | = | 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 Rules.

**SECTION 6. APPLICATION TO 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 adjustments prescribed under the Order.

Where said increase are less than the prescribed minimum wage rates provided in the Order, the employer shall pay the difference.

**SECTION 7. PRODUCTIVITY BASED WAGES.** In order to sustain rising levels of wages and enhance competitiveness, businesses are encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement productivity 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.

**SECTION 8. 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 2005-2006 shall be considered as compliance with the increase prescribed in the Order. However, payment of any shortfall shall be covered starting School Year 2006-2007.

Private education institutions, which have not increased their tuition fees for the School Year 2005-2006 may defer compliance with the provisions of the Wage Order until the beginning of School Year 2006-2007.

In any case, all private educational institutions shall implement the increase prescribed herein starting School Year 2006-2007.

**SECTION 9. APPLICATION TO CONTRACTORS.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates for covered workers shall be borne by the principals or clients of the construction/service contractor 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 the principal or client.

**SECTION 10. APPLICATION TO MOBILE BRANCH AND TRANSFERRED EMPLOYEES.** The minimum wage rates of workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head office of the employer. For those workers working in branches or agencies of establishments in or outside the Region, the minimum wage rates shall be those applicable in the place where they are stationed or based.

The transfer of personnel from a high rate city/municipality to a lower rate city/municipality shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. Workers transferred from a lower rate municipality to a higher rate municipality shall be entitled to the minimum wage rates applicable therein.

### **RULE III – EXEMPTIONS**

**SECTION 1. EXEMPTIBLE CATEGORIES.** The following may be exempted from compliance with the Order upon application with and as determined by the Board, in accordance with the NWPC Guidelines No. 01, Series of 1996 (NWPC Revised Guidelines on Exemption):

- a) Distressed Establishments;
- b) New Business Establishments which started operation on or after January 1, 2005;

- c) Establishments adversely affected by calamities;
- d) Retail/Service establishments regularly employing not more than ten (10) workers.

**SECTION 2. DURATION AND EXTENT OF THE EXEMPTION.** A full exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3 of the NWPC Guidelines 01, Series of 1996.

However, a partial exemption of 50% with respect to the amount or period of exemption may be granted only in the case of distressed establishments.

**SECTION 3. CRITERIA FOR EXEMPTION.** The following criteria shall be used to determine whether the applicant-establishment is qualified for exemption:

A. Distressed Establishments

1. For Stock Corporations/Cooperatives

- a. When 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 (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 3 A of this Guidelines.

B. 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 (P5,000,000.00) and below.

C. Establishment Adversely Affected by Natural Calamities

1. The establishment must be located in an area declared by a 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.

D. 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.

**SECTION 4. DOCUMENTS REQUIRED:** The following documents shall be submitted to the Board;

*For All Categories of Exemption*

1. Three (3) copies of Application for Exemption under oath
2. Proof of notice of filing of application to the President of the union/contracting party if one is organized in the establishment, or if there is no union, a copy of the circular giving general notice of the filing of application to all 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.

*ADDITIONAL REQUIREMENTS:*

*A. For Distressed Establishments*

For corporations, cooperatives, single proprietorships, non-stock non-profit organizations:

1. Audited financial statements together with the Auditor's Opinion and the notes thereto for the last two full accounting periods (2003-2004) filed with and stamped "received" by the Securities and Exchange Commission and the Bureau of Internal Revenue:

2. Audited interim quarterly financial statements together with Auditor's Opinion and the notes thereto for the period immediately preceding the effectivity of the Order.

For Banks and Quasi-Banks

- a. Certification from Bangko Sentral ng Pilipinas that it is under receivership/liquidation

*B. For the New Business Enterprises*

1. Affidavit from employer regarding the following:
  - a. Principal economic activity
  - b. Date of registration with appropriate government agency
  - c. Amount of total assets
2. Certificate of registration from appropriate government agency

*C. For Establishments Adversely Affected by Calamity*

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.
4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency.

*D. For Retail/Service Establishments Employing Not More than Ten (10) Workers*

1. Affidavit from 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
2. Business Permit for the current year from the appropriate government agency.

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

**SECTION 5. FILING OF APPLICATIONS FOR EXEMPTION.** Application for exemption shall be filed not later than seventy-five (75) days from the publication of this Rules Implementing Wage Order RBIVB-01. The date of mailing shall be the date of filing.

In the case of NBEs, applications shall be filed not later than sixty (60) days from the date of registration.

**SECTION 6. EFFECT OF FILING OF APPLICATION FOR EXEMPTION.** Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be duly notified. Pending resolution of the said application, the Regional Office of the Department shall defer action on any complaint for alleged non-compliance with the Order.

**SECTION 7. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION.** In the event that an application for exemption is not granted, covered workers and employees shall receive the appropriate compensation due them, as provided for in the Order plus an interest of 1% per month retroactive from the date when the Order became effective.

**SECTION 8. MOTION FOR RECONSIDERATION.** Any 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 to the other party and the Regional Office of the Department.

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.

#### **RULE IV – CREDITABLE INCREASE AND WAGE DISTORTION**

**SECTION 1. CREDITABLE WAGE INCREASE.** Wage increases granted by an employer in an organized establishment within three (3) months prior to the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein, if expressly provided for and agreed upon in a collective bargaining agreement.

In unorganized establishments, wage increases granted by the employer within three (3) months prior to the effectivity of this Order shall be credited as compliance therewith.

If such increases are less than the prescribed minimum wage increase herein, the employer shall pay the difference. Such increases shall not include anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employees.

**SECTION 2. EFFECTS ON EXISTING WAGE STRUCTURE.** Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the 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 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 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 Relation 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.

#### **RULE V – SPECIAL PROVISIONS**

**SECTION 1. 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 2. 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.

**SECTION 3. PENAL PROVISION.** Pursuant to 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 (P100,000.00) or imprisonment of not less 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.

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 managers, managing director or partner.

The employer/s 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 this Act.

**SECTION 4. 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 5. 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 6. 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 7.. PROHIBITION AGAINST INJUNCTION.** No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against and proceedings before the Commission or Boards.

**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, 2006 and every year thereafter in accordance with the form prescribed by the Commission.

**SECTION 9. REPEALING CLAUSE.** All 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 7. 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 8. EFFECTIVITY.** This Rules shall take effect on 17 June 2005.

*Done this \_\_\_\_\_, 2005, Quezon City, Philippines.*

**GRACE Y. URSUA**  
Chairperson

**NELLY F. VILLAFUERTE**  
Vice-Chairperson

**OSKAR D. BALBASTRO**  
Vice-Chairperson

**BENJAMIN P. BASQUIÑAS, JR.**  
Worker Representative

**JUANITO S. FACUNDO**  
Worker Representative

**LUCILA C. CASTILLO-TARRIELA**  
Employer Representative

**RENATO B. ALMEDA**  
Employer Representative

Approved: \_\_\_\_\_, 2005

**PATRICIA A. STO. TOMAS**  
Secretary of Department of Labor and Employment