

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Cotabato City

WAGE ORDER NO. ARMM-10
INTEGRATION OF P10.00 COLA TO THE BASIC WAGE AS A NEW
MINIMUM WAGE RATES

WHEREAS, the Regional Tripartite Wages and Productivity Board- Autonomous Region in Muslim Mindanao (RTWPB-ARMM) is mandated to determine and fix minimum wage rates applicable in the region;

WHEREAS, there being no petition for wage increase filed by any party the Board motu proprio initiated an action or inquiry to determine whether a wage order should be issued, by conducting public consultations in the provinces of Tawi-Tawi on November 27, 2007; Sulu on November 28, 2007; and in Cotabato City on December 11, 2007;

WHEREAS, following the policy direction of the RMM Honorable Regional Governnor DATU ZALDY UY AMPATUAN to attract more foreign and local investments in the region, the Board decided to integrate the P10.00/day COLA under Wage Order No. ARMM-09 into the basic wage, in order to augment the benefits of the workers without much effect to the expenditures of the establishments, thus, still maintaining the daily minimum wage of P200.00 prescribed under Wage Order No. ARMM-09;

WHEREAS, consistent with the government's policy of achieving higher levels of productivity to promote economic growth and generate employment, there is the need to give relief to the workers without impairing the viability of the business establishment as well as the need to build the capacity of business enterprises to be competitive through productivity improvement and gain-sharing programs;

NOW, THEREFORE , by virtue of the power and authority vested under Republic Act No. 6727, known as the "Wage Rationalization Act", the Regional Tripartite Wages and Productivity Board-Autonomous Region in Muslim Mindanao (RTWPB-ARMM), hereby issues this Wage Order:

Section 1. Integration of COLA. Upon the effectivity of this Wage Order, the P10.00 per day COLA under W.O. No. ARMM-09 shall be integrated into the basic wage. The P200.00 daily minimum wage rate under W.O. No. ARMM-09 shall be maintained, however, it is now all basic wage.

Section 2. Non-Wage Benefits. Establishments may extend non-wage benefits to all workers in the region as group life insurance, hospitalization, rice allowance, hazard pay, scholarship, hajj or pilgrim, and the like.

Section 3. Coverage. This Wage Order shall apply only to minimum wage earners in the region, except domestic helpers, family drivers, and those employed in the personal service of another, and workers in registered Barangay Micro Business Enterprises with certificates of authority pursuant to R. A. 9178.

Section 4. Productivity Based Wages. In order to sustain rising levels of wages and enhance competitiveness, businesses are encouraged strongly 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”.

Section 5. Basis of Minimum Wage. The minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 6. 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 rate per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours work a day.

Section 7. 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 region.

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 8. 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 9. 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 10. Exemptions. Upon application with and as determined by the Regional Board, the following establishments may be exempted from compliance with this Order for not more than one (1) year subject to applicable guidelines issued by the Commission:

- a. Establishments adversely affected by natural calamities;
- b. Distressed establishments; and
- c. New business enterprises.

Section 11. Complaints for Non-Compliance. Complaints for non-compliance with this Order shall be filed with 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 12. Penal Provision. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the wage increase prescribed in this Order, shall be subject to the penal provisions under R. A. 6727, as amended by R. A. 8188.

Section 13. 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 14. 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 15. 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, 2007 and every year thereafter in accordance with the form prescribed by the Commission.

Section 16. Repealing Clause. All orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended, or modified accordingly.

Section 17. 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 18. Implementing Rules. The Board shall prepare the necessary rules to implement this Order subject to approval of the Regional Governor of ARMM.

Section 19. Effectivity. This Order shall take effect fifteen (15) days after publication in at least one (1) newspaper of general circulation in the region.

Approved this 11th day of **December 2007** in Cotabato City, Philippines.

(SGD.) HON. ALE B. TUBA

Member

Workers' Representative

(SGD.) HON. AMEERAH ROSE P. SIRA

Member

Employers' Representative

(Vacant)
Member
Workers' Representative

(SGD.) HON. DATU HARON U. BANDILA
Member
Employers' Representative

(SGD.) HON. DIAMADEL E. DUMAGAY
RPDO Executive Director
Vice-Chairman

(SGD.) HON. ISHAK V. MASTURA
DTI Regional Secretary
Vice-Chairman

(SGD.) HON. MUSLIMIN A. JAKILAN
DOLE Regional Secretary
Chairman

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Republic of the Philippines
Autonomous Region in Muslim Mindanao
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES & PRODUCTIVITY BOARD
Cotabato City



RULES IMPLEMENTING WAGE ORDER No. ARMM – 10

RULE 1 - General Provisions

Pursuant to Section 6, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 18 of Wage Order No. ARMM - 10, the following rules are hereby issued for guidance and compliance by all concerned.

Section 1. Title.

These Rules shall be known as the “Rules Implementing Wage Order No. ARMM -10”.

Section 2. Definition of Terms.

- a. **“Order”** means Wage Order No. ARMM – 10;
- b. **“Commission or NWPC”** refers to the National Wages and Productivity Commission;
- c. **“Regional Board or Board”** means the Regional Tripartite Wages and Productivity Board of ARMM;
- d. **“Regional Department”** means the Department of Labor and Employment in ARMM;
- e. **“ARMM”** refers to the geographic area in the Autonomous Region in Muslim Mindanao covering the Provinces of Maguindanao, Lanao del Sur, Sulu, Tawi – Tawi, Basilan, and City of Marawi;
- f. **“RA 8188”** an act increasing the penalty and imposing double indemnity for violation of the prescribed wage increase in the wage rates amending for the purpose Section 12 of RA 6727 otherwise known as the Wage Rationalization Act;
- g. **“Agriculture”** refers to the farming in all its branches and among others, including the cultivation, growing, and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other products in farms or ponds and any activities performed by a farmer or on a farm as an incident to or in conjunction with some 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 Enterprises”** is the 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;
- i. **“Establishment”** refers to an economic unit, which engages in one or predominantly one kind of economic activity at a single fixed location;
- j. **“Basic Wage”** means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost-of-living allowances, profit sharing payments, premiums payments,

13th month pay or other monetary benefits which are not considered as part or integrated into regular salary of the workers.

- k. **“COLA”** or Cost of Living Allowance granted under the Order by an employer to a worker for services rendered to help the latter cope with the rising cost of living and is not considered part of the basic wage;
- l. **“Non-Wage Benefits”** refer to non-cash benefits granted to workers such as group life insurance, hospitalization, scholarship, rice allowance, hajj pilgrim, and the like;
- m. **“Minimum Wage Rate”** refers to the lowest wage rate that an employer can pay his workers, as fixed by the Board;
- n. **“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.
- o. **“Distressed Establishment”** refer to establishment which meet the criteria enumerated in Section 3A of the NWPC Guidelines No. 2, Series of 2007.
- p. **“Capital”** refers to paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnership, single proprietorship, and non-profit/non-stock organizations respectively.
- q. **“Full Accounting Period”** refers to a period of twelve (12) months or one (1) year of business operations.
- r. **“Deficit”** refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, dividend distributions, prior period adjustment and other capital adjustments.
- s. **“Stock Corporation”** refers to one organized for profit and issues shares of stock to its members.
- t. **“Non-Stock Non-Profit Organization”** refers to one organized principally for public purposes such as charitable, education, cultural or similar purposes and does not issues shares of stock to its members.
- u. **“Partnership”** refers to an association of two or more persons who bind themselves to contribute money, property or industry to a common fund with the intention of dividing the profits among themselves or for the exercise of a profession.
- v. **“Single Proprietorship”** refers to a business unit owned and controlled by only one person.
- w. **“Quasi-Banks”** refers to institutional such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.
- x. **“Paid-up Capital”** refers to the total amount of shareholders capital that has been paid by shareholders.
- y. **“Capital Impairment”** refers to the diminution of capital due to accumulated losses.
- aa. **“Interim Period”** refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year)
- bb. **“Net loss”** refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues.
- cc. **“Financial Statements”** refers to written report which quantitatively describes the financial health of company. This includes the following: balance sheet, income statement, statement of changes in equity, cash flow statements and notes financial statement.
- dd. **“Conservator ship”** refers to a remedy resorted to by the Monetary Board in case a bank or quasi-banks is a (a) unable to pay its liabilities as they become due in the ordinary course of business; (b) has insufficient realizable assets as

determined by the Bangko Sentral ng Pilipinas to meet its liabilities; (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has willfully violated acts or transactions which amount to fraud or dissipation of the assets of the institution.

ff. **“Under Corporate Rehabilitation”** refers to establishment that are placed under a rehabilitation receiver by a court of competent jurisdiction.

RULE II – NEW MINIMUM WAGE RATES

Section 1. Integration of the COLA.

Effective 04 January 2008, the P10.00 COLA granted under Wage Order No. ARMM-09 shall be integrated into the basic wage. The prescribed P200.00 daily minimum wage rate under W.O. No. ARMM-09 shall be maintained, however, it is now all basic wage. .

Section 2. New Minimum Wage Rates.

Effective 04 January 2008, the new daily minimum wage rates in ARMM shall be as follows:

Industry/Sector	Minimum Wage Rate under W.O.No. ARMM-10
All Sectors / Industry	P200.00 (all basic)

Section 3. Non-Wage Benefits.

The establishments may extend non-wage benefits to all workers in the region such as group life insurance, hospitalization, scholarship, hajj or pilgrim, rice allowance, and the like.

Section 4. Coverage.

The daily minimum wage rates prescribed in the Wage Order shall apply to minimum wage workers in the region, regardless of their positions, designation or status, and irrespective of the method by which their wages are paid, except household or domestic helpers, workers employed in the personal service of another, including family drivers, and workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to R.A 9178.

Section 5. Basis of Minimum Wage.

The daily minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight hours work a day.

Section 6. 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 (8) hours a day, or a proportion thereof for work of less than the normal working hours.

The prevailing 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 7. Wage 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.

All recognized apprenticeship and learnership agreement entered into before the effectivity of the Order shall be considered as automatically modified in so far as their wage clauses are concerned to reflect the adjustments prescribed under the Order.

Section 8. Suggested Formula in Determining the Estimated Equivalent Monthly Regional (EEMR) Minimum Wage Rates per Republic Act No. 9492.

Without prejudice to existing company practices, agreements or policies, the following formulae may be used as guides in determining the estimated equivalent monthly minimum wage rate:

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

Estimated Equivalent Monthly Rate (EEMR) = $\frac{\text{Applicable Daily Wage Rate (ADR)} \times 396.5}{\text{days}}$

Where 396.5 days/year	=	295	Ordinary working days	12 months
		22	11 Regular Holidays x 200%	
		8	4 Muslim Holidays x 200%	
		67.6	52 rest days x 130%	
		<u>3.9</u>	3 special days x 130%	
		396.5	Total no. of days/year	

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

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

Where 365 days/year	=	296	Ordinary working days
		52	Sundays/Rest days
		11	Regular Holidays
		4	Muslim Holidays
		<u>3</u>	Special Days
		365	Total no.of days/year

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

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

Where 313 days/year	=	295	Ordinary working days
		11	Regular Holidays
		4	Muslim Holidays
		<u>3</u>	Special days
		313	Total no.of days/year

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

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

Where 261 days/year	=:	243	Ordinary working days
		11	Regular holidays
		4	Muslim holidays
		<u>3</u>	Special days
		261	Total no. of days/year

The following are the eleven (11) regular holidays which are observed nationwide:

New Year's Day	January 1
Maundy Thursday	Movable Date
Good Friday	Movable Date
Araw ng Kagitingan	April 9
Labor Day	May 1
Independence Day	June 12
National Heroes Day	Movable Date in August
Bonifacio Day	November 30
Christmas	December 25
Rizal Day	December 30
" Id-UL-Fitr" (Hari Raya Puasa)	Movable Date

National Special Days:

All Saints Day	November 1
Last Day of the year	December 31
Ninoy Aquino Day	August 21

Muslim Holidays by virtue of PD 1083 – Title I, Book V:

Amun Jadid (New year)	Falls on the 1 st day of the lunar month of Muharram
Maulid-un-Nabi (Birthday of the	Falls on the 12th day of the 3 rd lunar month

Prophet Muhammad)	of Rabi-ul- Awwal
Lailatul Isra Wal Mi Raj (Nocturnal Journey and Ascension of the Prophet Muhammad)	Falls on the 27 th day of the 7 th lunar month of Rajab
Id-ul-Adha (Hari Raha Haji)	Falls on the 10 th day of the 12 th lunar month of Dhu'l-Hijja

Section 9. Creditable Wage Increase.

- a. Wage increase granted 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, provided that an agreement to this effect has been forged between the parties or provided in the Collective Bargaining Agreement (CBA);
- b. In the case of unorganized establishment, wage increase granted by the employer within three (3) months prior to the effectivity of this Order shall be credited as compliance;

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

Section 10. Productivity Based Wages.

In order to sustain rising levels of wages and enhance competitiveness, business 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.

Section 11. Application to Contractor.

In the case of contracts for construction projects and for security, janitorial services, the prescribed wage rates shall be borne by the principals or clients of the constructions / service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction / service contractor shall be jointly and severally liable with his principal or client.

Section 12. 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 of workers working in branches or agencies of establishments in or outside the region shall be those applicable in the place where they are stationed.

Section 13. Transfer of Personnel.

The transfer of personnel to areas outside the Region shall not be 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 14. 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 15. 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 - Exemptions

Section 1. Exemptible Establishments

Upon application with, and as determined by the Board, in accordance with the applicable rules and regulations issued by the Commission, the following maybe exempted from the applicability of the Order:

A. Distressed Establishments

1. For Corporations/Cooperative

a. Full Exemption

a.1 When the deficit as of the last full accounting period immediately preceding the affectivity of the Order amounts to 20% or more of the paid-up capital for the same period; or

a.2 When an establishment registers capital deficiency, i.e.,negative stockholders equity as of the last full accounting period immediately preceding the effectivity of the Order.

b. Partial Exemption

b.1 When the deficit as of the last full accounting period immediately preceding the effectivity of the order amounts to at least 10% but less than 20% of the paid-up capital for the same period.

c. Conditional Exemption

c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of the total assets.

2. For single Proprietorships/ Partnerships

a. Full Exemption

a.1 When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amount to 20% or more of the total invested capital at the beginning of the period under review; or

a.2 When establishment registers capital deficiency i.e negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.

b. Partial Exemption

b.1 When the accumulated net losses for the last full two (2) full accounting periods immediately preceding the effectivity of the Order amount to at least 10% but less than 20% of the total invested capital at the beginning of the period under review.

c. Conditional Exemption

c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

3. For Non-stock, Non-profit

a. Full Exemption

a.1 When the accumulated net loss as for last two (2) full accounting periods immediately preceding the effectivity of the Order amount to 20% or more of the fund balance/members' contribution at the beginning of the period: or

a.2 When an establishment registers capital deficiency i.e negative fund balance /members contributions as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the order.

b. Partial Exemption:

b1. When the accumulated net losses for the last two (2) full accounting period immediately preceding the effectivity of the Order amount to at least 10% but not more than 20% of the fund balance/members' contribution at the beginning of the period.

c. Conditional Exemption:

c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

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 RA 7653, otherwise known as the New Central Bank Act.

b. Under Controllorship/conservatorship

A bank or quasi-bank under controllership/conservatorship may apply for exemption as a distressed establishment under Section 3 A of the Amended Rules on Exemption.

5. Establishment Under Corporate Rehabilitation

Exemption may be granted to corporation, partnership and associations and under corporate rehabilitation when there is an order from the court of competent jurisdiction that it is under rehabilitation as provided in Section 6 Rule IV of the Interim Rules of Procedure on Corporate Rehabilitation (2000).

B. New Business Enterprises

Exemption may be granted to New Business Enterprises duly registered and established outside the Export Processing Zone within two (2) years from the effectivity of the Order classified under any of the following:

1. Agriculture establishment 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 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 partnership 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 2. Application for Exemption

Within seventy five (75) days from the date of publication of the 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.

Application 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 1, Rule IV.

Section 3. Duration and Extent of Exemption.

- A. full exemption of one (1) year from effectivity of the Order shall be granted to all categories of establishment that meet the applicable criteria for exemption under Section 1, Rule III of this Rules.
- B. Partial exemption of 50% from effectivity of the Order with respect to the amount or period of exemption shall be granted only in the case of distressed establishment under Section 1, Rule III of these Rules.
- C. Conditional exemption of one (1) year from the effectivity of the Order shall be granted only in the case of distressed establishment under Section 1 of Rule IV of these Rules. The conditional exemption shall be confirmed, as follows:

c.1 For Corporations

When deficit defined as of the last full accounting period amounts to 20% or more of the paid-up capital for the same period.

c.2 For Single Proprietorships and Partnerships.

When the net loss for the last two full accounting periods 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.

c.3 For Non-Stock, Non-Profit Organizations

When net loss for the last two full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period.

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

Section 4. Procedures on Exemption

A. Filing of Application

1. An application, in three (3) legible copies may be filed with the Board by the owner/manager or duly authorized representative of an establishment, in person or by registered mail. The date of mailing shall be deemed as the date of filing.
2. All application for exemption shall be under oath, accompanied by complete supporting documents and must be filed within seventy five (75) days from publication of the rules implementing the Wage Order. No further extension for filing and submission of the required documents shall be allowed.

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

B. Filing of Opposition

Any worker or, if unionized, the union in the applicant establishment, may file with the appropriate Board within fifteen (15) days from receipt of the notice of the filing of the application, an opposition to the application for exemption

stating the reasons why the same 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.

C. Filing of Motion for Reconsideration

The aggrieved party may file with 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-ARMM.

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.

D. Filing of Appeal to the Commission

1. Appeal- Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the board, in two (2) legible copies, not later than ten (10) days from the date of receipt of the decision.

The appeal, with proof of service of the other party, shall be accompanied with a memorandum, through the Board, in two (2) legible copies, not later than ten (10) days from the date of receipt of the decision.

2. 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.

3. Opposition- The appellee may file with the Board his reply or opposition to the appeal within ten (10) days from receipt of the appeal. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.

4. Transmittal or records- Within five (5) days upon receipt of the reply or opposition of the appellee or after the expiration of the period to file the same, the entire records of the case which shall be consecutively numbered, shall be transmitted by the board to the Commission.

Section 5. 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.

A. For Distressed Establishments

1. For Corporations, Cooperatives, Single Proprietorships, Partnerships, Non-Stock Non-Profit Organizations:

a. Full or Partial Exemption

a.1. Audited financial statements (together with the Auditor's opinion and the noted thereto) for the last two (2) accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriated agency.

b. Conditional Exemption

b.1. Audited financial statement (together with the Auditor's opinion and the noted thereto) for the last full accounting period and interim quarterly financial statements for the period immediately preceding the effectivity of the Order.

b.2. To confirm the grant of conditional exemption, audited financial statements for the last full accounting period, stamped received by the appropriate government agency, to be submitted within 30 days from the lapse of the one year exemption period.

2. For Banks and Quasi-banks

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

3. For Establishments Under Corporate Rehabilitation

Order from a Court of competent jurisdiction that the establishment is under rehabilitation.

B. For 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 the appropriate government agency

C. For Establishments Adversely Affected by Natural Calamities

1. Affidavit from the General Manager of 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 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.

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

Section 3. Effect of Filing on the Application for Exemption.

Whenever an application for exemption has been filed with the Board, the Regional Office of the Department of Labor shall be duly notified. Pending resolution of the said application, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

Section 4. Effect of Disapproved Application for Exemption.

In the event that the application for exemption is not approved, covered workers shall be paid the prescribed wage increase as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

RULE IV - SPECIAL PROVISIONS

Section 1. Effect on Existing Wage Structure.

Where the application of the prescribed minimum wage rate results in distortions in the wage structure within an establishment, which gives rise to dispute therein, such dispute shall first be settled voluntarily between the parties.

In these cases where there are collective bargaining agreements or recognized labor unions, 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, the voluntary arbitrator or panel of voluntary arbitrators shall decide the dispute 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. 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 wage rates pursuant to the provisions of the Wage Order.

Section 2. Complaints for Non-Compliance.

Complaints for non-compliance with the Order shall be filed with the Regional Department having jurisdiction over the workplace and shall be the subject of the enforcement proceedings under Article 128 and 129 of the Labor Code, as amended, without prejudice to criminal prosecution, which may be undertaken against those who fail to comply.

Section 3. Conduct of Inspection by the Department.

The Department shall conduct inspection 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 establishment, 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 occur with the findings of the labor inspector.

Section 4. Non-diminution of Benefits.

Nothing in the Order and in this Rule 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 (P100,000.00) and imprisonment of not less than (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 this Order.

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.

Section 8. Reporting Requirements.

Any person, company, corporation, partnership or an entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than

January 31, 2008 and every year thereafter in accordance with the form prescribed by the Commission.

(Refer to Annex "A" for the prescribed form)

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 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 Rule or the application of such provision or part thereof to the other persons or circumstances shall not be affected thereby.

Section 11. Effectivity of Rules.

This Rules shall take effect on 04 January 2008.

APPROVED this 3rd day of January , 2008:

HON. AMEERAH ROSE P. SIRA
Member, Employers' Representative

(SGD.) HON. ALE B. TUBA
Member, Workers' Representative

(SGD.) HON. DATU HARON U. BANDILA.
Member, Employers' Representative

(Vacant)
Member, Workers' Representative

(SGD.) HON. DIAMADEL E. DUMAGAY
RPDO Executive Director
Vice-Chairperson

(SGD.) HON. ISHAK V. MASTURA
DTI Regional Secretary
Vice-Chairperson

(SGD.) HON. MUSLIMIN "JANN" A. JAKILAN
DOLE Regional Secretary
Chairman

APPROVED this 22 nd day of February , 2008:

(SGD.) HON. DATU ZALDY "PUTI" U. AMPATUAN
Regional Governor
ARMM