

Republic of the Philippines
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
National Capital Region

WAGE ORDER NO. NCR-02

GRANTING A PROVISIONAL WAGE INCREASE

WHEREAS, the continuing crises in the Gulf, and the natural calamities that befell the country had resulted in the worsening economic situation in the country;

WHEREAS, the effect of these crises and the adjustment in the value of the Philippine peso vis-à-vis the US dollar have made it imperative to increase the prices of domestic petroleum products by an average of P2.82 per liter on 10 October 1990;

WHEREAS, such adjustments have contributed to a substantial increases in transportation fares and prices of basic goods and services;

WHEREAS, in addition to the efforts of government to hold down prices of basic goods, it is necessary to provide workers and their families with immediate relief measures to enable them to cope with the rising cost of living;

WHEREAS, the Trade Union Congress of the Philippines filed a petition for a P30.00 per day wage increase for workers in the NCR receiving up to P400.00 per day and the Lakas ng Manggagawa Labor Center petitioned for a provisional wage increase;

WHEREAS, the Regional Board feels it appropriate to grant emergency relief to the affected workers in the form of provisional wage increase pending deliberation of the TUCP and LMLC petitions;

NOW, THEREFORE, by virtue of the power and authority vested under RA 6727, known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of NCR hereby issues this Wage Order;

Section 1. Upon the effectivity of this Wage Order, all employers in the private sector at NCR shall provide all employees and workers receiving the minimum wage rate up to P142.00 per day a provisional wage increase of P12.00 per day.

Section 2. All workers paid by result, including those who are paid on piecework, "takay," "pakyaw," or task basis shall be entitled to receive the prescribed provisional wage increase per eight (8) hours of work a day, or a proportion thereof for working less than eight (8) hours.

Section 3. In the case of contracts for construction projects and security, janitorial and similar services, the prescribed provisional wage increase for covered workers and employees 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, the principal or client fails to pay the prescribed increase, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 4. Where the application of the provisional wage increase under this Wage Order result in distortions of the wage structure in any establishment, such distortions shall be resolved using the procedure specified under Article 124 of the Labor Code of the Philippines as amended.

Section 5. Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Retail/Service establishment regularly employing not more than ten (10) workers may be exempted from the applicability of this Wage Order upon the application with and as determined by the Regional Board in accordance with the applicable rules and regulations. Whenever the application for exemption has been duly filed with the Regional Board, action on any complaint for the alleged non-compliance with this Wage Order shall be deferred pending resolution of the application for the exemption by the Regional Board.

Distressed employers whose capital has been impaired by at least twenty-five percent (25%) during the preceding year may be exempted from the applicability of this Wage Order upon application with and as determined by the Regional Board in accordance with the applicable rules and regulations. The

Regional Board has the option whether to grant full or partial exemption to such distressed employer with respect to the amount.

In the event that applications for exemption are not granted, employees shall receive the appropriate compensation due them as provided for in this Wage Order plus interest of one percent (1%) per month retroactive to the effectivity of this Wage Order.

Section 6. The Regional Board shall prepare the necessary rules and regulations to implement this Wage Order subject to the approval of the Secretary of Labor and Employment.

Section 7. Any employer who refuses or fails to pay the provisional wage increase provided under this Wage Order shall be subject to the penalties specified under R.A. 6727.

Section 8. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance or other benefit under existing laws, decrees, issuances, executive order and/or under any contract or agreement between workers and employers.

Section 9. This Wage Order shall take effect upon publication in at least one (1) newspaper of general circulation in the region.

Approved, December 20, 1990.

(SGD) DANIEL R. ANG
Worker Representative

I dissent.
(SGD) VICENTE LEOGARDO, JR.
Employer Representative

*I dissent since P12.00 provisional
increase is too low*
(SGD) JOJI L. BARRIOS
Worker Representative

*I vote for a provisional wage increase of
P10.00 a day for minimum wage earners.*
(SGD) CLETO T. VILLATUYA
Employer Representative

(SGD) IMELDA J. MADARANG
Vice Chairman

(SGD) ERNESTO GOROSPE
Vice-Chairman

(SGD) BERNARDINO B. JULVE
Chairman

Republic of the Philippines
National Wages and Productivity Commission
Regional Tripartite Wages and Productivity Board
National Capital Region

WAGE ORDER NO. NCR-02-A
Amending Wage Order No. NCR-02 as
to its date of effectivity

WHEREAS, the Employer's Confederation of the Philippines (ECOP) filed a Motion for Reconsideration of Wage Order No. NCR-02 arguing, among others, that the effectivity of said wage order should not be upon publication in at least one newspaper of general circulation in the region citing for that purpose Sec. 4, Rule IV of the Rules on Minimum Wage Fixing;

WHEREAS, upon review of said wage order and Republic Act No. 6727 from which the Board derives its authority as well as its implementing rules and those promulgated by the National Wages and Productivity Commission notably the Rules on Minimum Wage Fixing, the Board believes that the effectivity of the wage order should be fifteen (15) days from publication in a newspaper of general circulation in the region;

NOW, THEREFORE, the Board resolves, as it is hereby resolved, to amend Section 9 of Wage Order No. NCR-02 to read as follows:

"Section 9. This wage order shall take effect fifteen (15) days from publication in at least one newspaper of general circulation in the region."

The Board further resolves, as it is hereby resolved to declare, in view of such amendment and considering that its publication was on 24 December 1990, 8 January 1991 as the effective date of Wage Order No. NCR-02.

Approved, 8 January 1991.

(SGD) BERNARDINO B. JULVE
Chairman

(SGD) JOJI L. BARRIOS
Worker Representative

(SGD) CLETO T. VILLATUYA
Employer Representative

I Vote No.
(SGD) DANIEL R. ANG
Worker Representative

VICENTE LEOGARDO, JR.
Employer Representative
(*Out of the Country*)

(SGD) ERNESTO GOROSPE
Vice-Chairman

(SGD) IMELDA J. MADARANG
Vice-Chairman

Republic of the Philippines
Department of Labor and Employment
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
National Capital Region

RULES IMPLEMENTING WAGE ORDER NO. NCR-02 and NCR-02-A

Pursuant to Section 5. Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing, Section 6 of Wage Order No. NCR-02, the following rules are hereby issued for guidance and compliance by all concerned:

Chapter I - Definition of Terms

Section 1. Definition of Terms. - As used in this Rules,

- a) "Order" means Wage Order No. NCR-02;
- b) "Supplemental Order" means Wage Order No. NCR-02-A;
- c) "Commission" means the National Wages and Productivity Commission;
- d) "Board" means the Regional Tripartite Wages and Productivity Board in the National Capital Region;
- e) "National Capital Region" covers the cities of Kalookan, Manila, Pasay and Quezon and the municipalities of Las Pinas, Makati, Malabon, Mandaluyong, Marikina, Muntinlupa, Navotas, Paranaque, Pasig, Pateros, San Juan, Taguig and Valenzuela;
- f) "Agriculture" refers to farming in all its branches and among others, includes the cultivation, and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activities performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products;
- g) "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprise";
- h) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- i) "Service Establishment" is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such;
- j) "Cottage/Handicraft Establishment" is one engaged in an economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship and/or whose capitalization does not exceed P500,000, regardless of previous registration with the defunct NACIDA;
- k) "Distressed Establishments" refer to establishments with capital impairment in the preceding year as may be determined by the Board;
- l) "Department" refers to the Department of Labor and Employment;
- m) "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 payment, premium payments, 13th month pay and other monetary benefits which are not considered as part of or integrated into the regular salary of the workers on the date the Wage Order became effective;
- n) "Statutory Minimum Wage" is the lowest wage rate fixed by law that an employer can pay his workers;

- o) "Minimum Wage Rates" refer to the lowest wage rates that an employer can pay his workers, as fixed by the Board, and which shall not be lower than the applicable statutory minimum wage rates;
- p) "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.

Chapter II - Wage Increase

SECTION 1. Coverage. a) The wage increase prescribed under the Order shall apply to all private sector workers and employees in the National Capital Region receiving a basic wage of not more than one hundred forty-two (P142.00) per day or its monthly equivalent regardless of their position, designation or status, and irrespective of the method by which their wages are paid, except:

- i) Household or domestic helpers, including family drivers and workers in the personal service of another;
- ii) Workers and employees in retail/service establishments regularly employing not more than 10 workers, when exempted from compliance with the Order for a period fixed by the Board in accordance with applicable guidelines to be issued by the Commission.
- iii) Workers and employees of distressed establishments when exempted from compliance for a period fixed by the Board in accordance with applicable guidelines to be issued by the Commission.

b) Workers and employees who, prior to the effectivity of the Order were receiving a basic wage rate of more than one hundred forty-two pesos (P142.00) per day or its monthly equivalent may receive wage increases through the correction of wage distortions in accordance with Section 10, of this Rules.

SECTION 2. Amount. Workers and employees covered under Section 1 hereof shall receive a provisional wage increase of twelve pesos (P12.00) per day.

SECTION 3. Effectivity. a) The wage increase to minimum wage earners shall take effect on January 8, 1991 upon publication of the Order in one newspaper of general circulation on December 24, 1990 pursuant to Section 9 of Supplemental Order thereof.

SECTION 4. Daily Minimum Wage Rates. a) The daily minimum wage rates of workers and employees in the National Capital Region shall be as follows:

Sector/Industry	Under WO-NCR-01 (Effective November 1, 1990)	Under WO-NCR-02 (Effective January 8, 1991)
Non-Agriculture	P 106.00	P 118.00
Agriculture		
Plantation	96.00	108.00
Non-Plantation	85.50	97.50
Cottage/Handicraft		
Employing more than 30 workers	94.00	106.00
Employing not more than 30 workers	92.00	104.00
Private Hospitals		
With bed capacity of more than 100	106.00	118.00
With bed capacity of 100 or less	102.00	114.00

Retail/Service		
Employing more than 15 workers	106.00	118.00
Employing 11 to 15 workers	102.00	114.00
Employing not more than 10 workers	85.00	97.00

b) Without prejudice to existing company practices, agreements or policies, the suggested formula herein attached as Annex "A" may be used as guide in determining the equivalent monthly minimum wage rates.

SECTION 5. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increases shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be held jointly and severally liable with his principal or client.

SECTION 6. Exemption. a) The following establishments may be exempted from compliance with the wage increase prescribed under the Order upon application with and as determined by the Board in accordance with applicable rules and regulations to be issued by Commission:

- 1) Retail/Service establishments regularly employing not more than 10 workers; and
- 2) Distressed establishments whose capital has been impaired by at least twenty-five percent (25%) during the year preceding the application.

b) The Board has the option to grant full or partial exemption with respect to the amount and the period which shall not exceed one (1) year from the effectivity of the Order;

c) Whenever an application for exemption has been duly filed with the Board, action by the Regional Office of the Department in the National Capital Region on any complaint for alleged non-compliance with the Order shall be deferred pending resolution of the said application;

d) In the event that the application for exemption is not granted, the workers and employees shall receive the appropriate compensation due them as provided for under the Order plus compounded interest of one percent (1%) per month retroactive to January 8, 1991.

SECTION 7. Basis of Minimum Wage Rates. The minimum wage rates prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours of work a day.

SECTION 8. Workers Paid by Results. a) All workers paid by results including those who are paid on piece work, 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 work a day, or a proportion thereof for work of less than the normal working hours.

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

- 1) $\frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}} \times 100 = \% \text{ increase};$
- 2) Existing rate/pc. x % increase = increase in rate/pc.;
- 3) Existing rate/pc. + increase in rate/pc. = adjusted rate/pc.

* AMW is the applicable minimum wage rate.

b) 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 9. Wages of Special Groups of Workers. Wages of apprentices, learner, and handicapped workers shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates.

All recognized learnership and apprenticeship agreements entered into before January 8, 1991 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increase prescribed under the Order.

SECTION 10. Wage Distortion. Where the application of the wage increase provided under the Order results in distortions in the wage structure within an establishment, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved through the grievance procedure under their collective bargaining agreement and, if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct the wage distortion. 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, it 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 a wage distortion shall not in any way delay the applicability of any wage increase prescribed under the Order.

SECTION 11. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase provided in the Order shall be filed with the Regional Office of the Department in the National Capital Region and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

SECTION 12. Non-Diminution of Benefits. Nothing in the Order, and this Rules shall be construed as authorizing the reduction of any existing wage rates, allowances and benefits of any form under existing laws, decrease, issuances, executive orders, and/or under any contract or agreement between the workers and employers or employer practices or policies.

SECTION 13. Penal Provision. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase under the Order shall be punished by a fine not exceeding P25,000 and/or imprisonment of not less than one (1) year nor more than two (2) years. 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 officer's, including, but not limited to, the president, vice-president, chief executive officer, general manager, managing director or partner.

SECTION 14. Prohibition Against Injunction. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceeding before the Board.

SECTION 15. Effect on Other Issuances. The provisions of existing laws and decrees on wages and their implementing rules and regulations and issuances not otherwise repealed, modified or inconsistent with the Order, and this Rules shall continue to have full force and effect.

SECTION 16. Effectivity. - This Rules shall take effect on January 9, 1991.

Done in Metro Manila, Republic of the Philippines this 18th day of January 1991.

(SGD) DANIEL R. ANG
Worker Representatives

Out of the Country
VICENTE LEOGARDO, JR.
Employer Representative

(SGD) JOJI L. BARRIOS
Worker Representative

(SGD) CLETO T. VILLATUYA
Employer Representative

(SGD) IMELDA J. MADARANG
Vice-Chairman

(SGD) ERNESTO GOROSPE
Vice-Chairman

(SGD.) BERNARDINO B. JULVE
Chairman

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

Nothing herein shall be construed as authorizing the reduction of benefits granted under existing agreements or employer practices/policies.