

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
National Capital Region
Metro Manila

WAGE ORDER NO. NCR - 04
PROVIDING AN INCREASE IN THE REGIONAL MINIMUM WAGE

WHEREAS, the Regional Tripartite Wages and Productivity Board - National Capital Region (RTWPB-NCR) conducted a series of public consultations with the employer and labor sectors by reason of the increase in the prices of rice, sugar and other basic commodities and the impending increase in the prices of oil and other petroleum products;

WHEREAS, on 06 November 1995, the Trade Unions of the Philippines and Allied Services (TUPAS-WFTU) filed a petition for a sixteen peso (P16.00) per day wage increase;

WHEREAS, various sectors, notably the employers, registered their opposition to the petition for wage increase; two of these oppositions came in the form of a Motion to Dismiss filed by the Employers' Confederation of the Philippines (ECOP) and the Provincial Bus Operators' Association of the Philippines (PBOAP).

WHEREAS, in response to the petition filed, two separate public hearings were held on 27 November and 11 December 1995.

WHEREAS, on 22 December 1995, the Trade Unions Congress of the Philippines (TUCP) filed its Consolidated Comment on TUPAS' Petition with a prayer for a thirty five pesos (P35.00) per day increase in wage.

WHEREAS, the purchasing power of the Philippine peso has eroded since the last Wage Order issued by the Board;

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

Section 1. All private sector workers and employees in the National Capital Region receiving the prescribed minimum wage rate of ONE HUNDRED FORTY FIVE PESOS (P145.00) per day shall receive a wage increase of twenty pesos (P20.00) per day to be given in the following manner:

- a. An increase of SIXTEEN PESOS (P16.00) per day upon the effectivity of this Order.
- b. An increase of FOUR PESOS (P4.00) per day effective 01 May 1996.

Section 2. To effect a uniform minimum wage rate in the Region, adjustments in the salaries of other categories of workers receiving less than one hundred forty five pesos per day shall be given in a staggered basis within a period of three years in the manner prescribed in the Rules implementing this Order.

Section 3. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for the School Year 1995-1996 shall be considered as compliance with the wage increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 1996-1997.

Private educational institutions which did not increase their tuition fees for the School Year 1995-1996 may defer compliance with the provisions of this Wage Order until School Year 1996-1997.

In any case, all private educational institutions shall implement the increase in the daily minimum wage rate prescribed herein starting School Year 1996-1997.

Section 4. In the case of workers covered by contracts for works and services, the prescribed increase in wage set forth herein shall be borne by the principal and the contract previously forged between them is deemed amended accordingly. In the event that the principal fails to pay the prescribed increase, the contractor shall be jointly and severally liable with the principal.

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

Section 6. Upon application with and as determined by the Board, in accordance with the applicable rules and regulations issued by the Commission, the following may be exempt from the applicability of this Order:

1. Retail/Service establishments regularly employing not more than ten (10) workers.
2. Distressed establishments as defined in the NWPC Revised Guidelines on Exemption;
3. Garment and textile exporting firms, including indirect exporters with at least 50% export sales and with existing forward contracts with their foreign buyers/principals on or twelve (12) months before January 16, 1996 may be exempt during the lifetime of the said contract but not to exceed twelve (12) months from the effectivity of this Order.

Section 7. The Board has the discretion to grant full or partial exemption to such employer with respect to the amount or period of exemption but in no case shall it exceed one (1) year from the effectivity of this Wage Order.

Section 8. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance with this Wage Order shall be deferred pending its resolution.

Section 9. In the event that the 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 together with the payment of interest amounting to one percent (1%) per month retroactive to the effectivity of this Order.

Section 10. Wage increases granted by an employer in an organized establishment within three months prior to the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein, provided an agreement to this effect has been forged between the parties or a collective bargaining agreement provision allowing creditability exists. In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the increase prescribed in this Order.

In unorganized establishments, wage increases granted by the employer within six (6) months prior to the effectivity of this Order shall be credited as compliance therewith.

In case the increases given are less than the prescribed adjustment, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases and those resulting from the regularization or promotion of employees.

Section 11. Where the application of the wage increase prescribed in this Order results in distortions in the wage structure within the establishment, the wage distortions shall be resolved using the formula provided hereunder:

$$\frac{\text{Minimum Wage under WO-NCR-03}}{\text{Present Salary}} \times \text{Minimum Wage Adjustment} = \text{Amount of wage adjustment due to distortion}$$

Section 12. All workers paid by result, including those who are paid on piecework, takay, pakyaw or task basis, shall be entitled to receive the prescribed minimum wage increase per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 13. Any employer who refuses or fails to pay the regional minimum wage increase provided under this Wage Order shall be subject to the penalties specified under R.A. 6727.

Section 14. The Regional Board shall prepare the necessary rules and regulations to implement this Order subject to the approval of the Secretary of Labor and Employment.

Section 15. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts thereof shall remain valid. Nothing in this Order shall be construed to reduce any existing wage rate, allowance or other benefit under existing laws, decrees, issuances, and executive orders or under any contract or agreement between workers and employers.

Section 16. This Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

Approved.

Manila, Philippines, 16 January 1996.

Concurring and Dissenting in a separate opinion.
 (SGD) VICENTE LEOGARDO, JR.
 Member

(SGD) DANIEL R. ANG
 Member

Concurring and Dissenting in a separate opinion
 (SGD) CLETO T. VILLATUYA
 Member

Dissenting in a separate opinion
 (SGD) GERMAN N. PASCUA, JR
 Member

(SGD) LUWINA S. ENECIO
Vice-Chairman

(SGD) MARCELINA E. BACANI
Vice-Chairman

(SGD) ROMEO A. YOUNG
Chairman

WAGE ORDER NO. NCR-04-A
AMENDING SECTION II OF WAGE ORDER NO. NCR-04

WHEREAS, on 16 January 1996, the Regional Tripartite Wages and Productivity Board - National Capital Region issued Wage Order No. NCR-04 pursuant to its mandate under Republic Act No. 6727 from which the Board derives its authority;

WHEREAS, in Wage Order No. NCR-04, particularly in Section 11 thereof, the Board prescribed a formula for wage distortion;

WHEREAS, this provision is intended to be merely directory and not mandatory;

NOW THEREFORE, in order to reflect the true intention of the provision, the Board resolves, as it is hereby resolved, to amend Section 11 of Wage Order No. NCR-04 to read as follows:

“Section 11. Where the application of the wage increase prescribed in this order results in distortion in the wage structure within the establishment, the wage distortions MAY be resolved using the formula provided hereunder.”

<u>Minimum Wage under WO-NCR-03</u>	x	Minimum Wage =	Amount of Wage Adjustment due
Present Salary		Adjustment	to Distortion

This Order takes effect on 02 February 1996.

Approved. Manila, Philippines 06 February 1996.

I concur in the result.

(SGD) VICENTE LEOGARDO, JR.
Member

(SGD) CLETO T. VILLATUYA
Member

(SGD) LUWINA S. ENECIO
Vice-Chairman

I dissent.

(SGD) DANIEL R. ANG
Member

(SGD) GERMAN PASCUA, JR.
Member

(SGD) MARCELINA E. BACANI
Vice-Chairman

(SGD) ROMEO A. YOUNG
Chairman

RULES IMPLEMENTING WAGE ORDER NOS. NCR-04 AND NCR-04-A

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 14 of Wage Order No. NCR-04, the following rules are hereby issued for guidance and compliance by all concerned;

RULE I GENERAL PROVISIONS

SECTION 1. Title. This Rules shall be known as “The Rules Implementing Wage Order Nos. NCR-04 and NCR-04-A”;

SECTION 2. Definition of Terms. As used in this Rules,

- a. “*Order*” means Wage Order No. NCR-04;
- b. “*Department*” means the Department of Labor and Employment;
- c. “*Commission*” means the National Wages and Productivity Commission;
- d. “*Board*” means the Regional Tripartite Wages and Productivity Board National Capital Region;
- e. “*Regional Office*” refers to the regional office of the Department of Labor and Employment in the National Capital Region;
- f. “*National Capital Region*” covers the cities of Caloocan, Makati, Mandaluyong, Manila, Muntinlupa, Pasay, Pasig, Quezon, and the municipalities of Las Pinas, Malabon, Marikina, Navotas, Paranaque, Pateros, San Juan, Taguig and Valenzuela;
- 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 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;
- h. “*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”;
- i. “*Retail Establishment*” is one principally engaged in the sale goods to end-users for personal or household use.

A retail establishment that regularly engages in wholesale activities loses its retail character.

- j. “*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;
- k. “*Cottage/Handicraft Establishment*” is one engaged in an economic endeavor in which the products are primarily done in the home or such others places for profit which requires manual dexterity and craftsmanship and whose capitalization does not exceed P1.5 million regardless of previous registration with the defunct NACIDA;
- l. “*Distressed Establishments*” refer to establishment which meet the criteria enumerated in Section 3(3) of the NWPC Guidelines on Exemption;
- m. “*Exporter*” means any person, natural or juridical, licensed to do business in the Philippines, engaged directly or indirectly in the production, manufacture or trade of products or services which earns at least fifty percent (50%) of its normal operating revenues from the sale of its products services abroad for foreign currency. In the case of indirect exporters, the requirement that products or services be sold “abroad for foreign currency” shall not apply as, by the very nature of their business, the sale of their products or services takes place in the Philippines, and such indirect exporter are usually paid in Philippines currency.
- n. “*Indirect exporter*” means a person, firm or corporation who perform any production process for a manufacturer or exporter.

- o. "Forward Contracts" refer to any written agreement entered into by an exporter as defined herein and its foreign buyer or principal on or twelve (12) months before 16 January 1996;
- p. "Prescribed Daily Minimum Wage Rates" refer to the minimum wage rates prescribed by the Board for all private sector workers and employees in the National Capital Region;
- q. "Wage Distortion" refers to 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.

RULE II
WAGE INCREASE

SECTION 1. Coverage. The wage increase prescribed in the Order shall apply to all private sector workers and employees in the National Capital Region receiving the prescribed daily minimum wage rate of **one hundred forty five pesos** (P145) regardless of their position, designation or status and irrespective of the method by which their wages are paid, except household or domestic helpers and workers employed in the personal service of another, including family drivers.

SECTION 2. Amount And Effectivity of Increase. Workers and employees covered in the preceding Section shall receive a wage increase of **TWENTY PESOS** (P20.00) per day payable in the following manner:

AMOUNT	EFFECTIVITY
P 16.00 per day	02 February 1996
P 4.00 per day	01 May 1996

SECTION 3. Daily Minimum Wage Rates. To effect a uniform minimum wage rate in the Region, adjustments in the salaries of others categories of workers receiving less than **one hundred forty five pesos** per day shall be given in a staggered basis within a period of three years in the following manner:

Sector/Industry	EFFECTIVITY AND ADJUSTMENTS						
	WO NCR-03	02 Feb 1996	01 May 1996	01 Jan 1997	01 Jan 1998	01 Jan 1999	WO NCR-04
AGRICULTURE							
Plantation	135.00	+16.00	+4.00	+5.00	+5.00	--	165.00
Non-Plantation	124.50	+16.00	+4.00	+7.00	+7.00	+6.50	165.00
COTTAGE/HANDICRAFT							
Employing more than 30 workers	133.00	+16.00	+4.00	+4.00	+4.00	+4.00	165.00
Employing not more than 30 workers	131.00	+16.00	+4.00	+5.00	+5.00	+4.00	165.00
PRIVATE HOSPITALS							
With bed capacity of more than 100	145.00	+16.00	+4.00	--	--	--	165.00
With bed capacity of 100 or less	141.00	+16.00	+4.00	+4.00	--	--	165.00
RETAIL/SERVICE							
Employing more than 15 workers	145.00	+16.00	+4.00	--	--	--	165.00
Employing 11 to 15 workers	141.00	+16.00	+4.00	+4.00	--	--	165.00
Employing not more than 10 workers	124.00	+16.00	+4.00	+7.00	+7.00	+7.00	165.00

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

SECTION 4. 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 the School Year 1995-1996 shall be considered as compliance with the wage increase prescribed in the Order. However, payment of any shortfall in the wage increase set forth in the Order shall be covered starting School Year 1996-1997.

Private educational institutions which did not increase their tuition fees for the School Year 1995-1996 may defer compliance with the provisions of the Order until School Year 1996-1997.

In any case, all private educational institutions shall implement the increase in the daily minimum wage rate prescribed in the Order starting School Year 1996-1997.

SECTION 5. Application to Workers Covered by Contracts for Works and Services. In the case of workers covered by contracts for works and services, including but not limited to construction projects, security, janitorial and other similar services, the prescribed increase in wage set forth in the Order shall be borne by the principal of the construction/service contractors and the contract previously forged between

them is deemed amended accordingly. In the event that the principal fails to pay the prescribed increase, the contractor shall jointly and severally liable with the principal.

SECTION 6. Workers Paid by Results. All workers paid by results including those who are paid on piece work, "takay", "pakyaw", or task basis, shall receive not less than the prescribed minimum wage rates 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.
$$\frac{\text{Amount of increase in AMW*}}{\text{(1) Previous AMW}} \times 100 = \% \text{ increase}$$
 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.

The wage rates of workers who are paid by results shall continue to be established by the Department through time and motion studies, an individuals/collective bargaining agreement between the employer and its workers as approved by the Secretary, and consultation with the representative of employers and workers organization in tripartite conference called by the Secretary.

The rate fixed in accordance with this Section shall apply in the establishment or industry covered, subject to review by the Secretary from time to time.

Where the output rates established by the employer do not conform with the standards set under the foregoing methods for establishing output rates, the employee shall be entitled to the difference between the amounts they are entitled to receive and the amounts paid by the employer.

SECTION 7. Wages of Special Groups of Persons. Wages of apprentices, learners, and handicapped workers shall in no case be less than seventy-five percent (75%) of the minimum wage rates prescribed in the Order.

All recognized learnership and apprenticeship agreements entered into before 02 February 1996 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increase prescribed under the Order.

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

RULE III

EXEMPTIONS

SECTION 1. Workers Not Covered in the Order. Exempted from the provisions of this Order are household or domestic helpers and persons employed in the personal service of another, including family drivers.

SECTION 2. Who May Be Exempted. Upon application and as determined by the Board, in accordance with the applicable rules and regulations issued by the Commission, the following may be exempt from the applicability of this Order.

1. Retail/Service establishments regularly employing not more than ten, (10) workers.
2. Distressed establishments whose paid-up capital has been impaired by at least twenty five percent (25%) or which registers capital deficiency or negative net worth.
3. Garment and textile exporters, including indirect exporters, with at least 50% export sales and with existing forward contracts with their foreign buyers/principals on or twelve (12) months before 16 January 1996 may be exempt during the lifetime of the said contract but not to exceed twelve (12) months from the effectivity of the Order.

SECTION 3. Application for Exemption. Within sixty (60) days from the date of publication of this Rules, an application for exemption shall be filed with the Board in two (2) typewritten copies by the owner/manager or duly authorized representative of an establishment, either through personal services or by registered mail. The date of mailing shall be deemed as the date of filing.

All application for exemption shall be under oath and must be supported by a proof of notice to the Union President/contracting party (in case the establishment is organized) or a copy of the circular giving general notice to all workers (if there is no union) that an application for exemption from compliance with the Order has been filed with the Board. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

SECTION 4. Supporting Documents. Aside from those prescribed in the preceding Section, and in accordance with the rules prescribed in the NWPC Guidelines on Exemption, the following supporting documents shall be submitted with the application:

- A. For retail / service establishments employing not more than ten (10) workers:

1. an affidavit from the employer stating the principal economic activity and the number of workers employed in the establishment;
 2. business permit for the current year from the appropriate government agency/ies.
- B. For distressed establishments:
1. Audited financial statements for the last two full accounting periods immediately preceding the effectivity of the Order filed with and stamped "received" by the BIR and SEC;
 2. Interim quarterly financial statements for the period immediately preceding the effectivity of the Order;
 3. Income tax returns for the last two taxable periods filed with and stamped "received" by the BIR;
 4. Quarterly income tax returns immediately preceding the effectivity of the Order filed with and stamped "received" by the BIR.
- C. For garments and textile exporters, including indirect exporters:
1. Affidavit from the employer stating the following:
 - 1.a. principal economic activity, number of workers, existing union/s if any, wage structure;
 - 1.b. list of forward contracts entered into stating the following:
 - 1.b.1. name of foreign buyers or principals and their addresses
 - 1.b.2. date of contracts
 - 1.b.3. delivery or shipping dates
 - 1.b.4. amount and volume of orders
 2. Certificate of accreditation from the Bureau of Export Trade Promotion and others deputized agencies identified under Department of Trade and Industry Department administrative Order No. 3, Series of 1995.
 3. Business permit for the current year from the Office of the City/Municipal Mayor, or registration from BOI, DTI or CDA, or articles of incorporation from SEC or other governmental agencies;
 4. Certified true copies of the forward contracts;
 5. Irrevocable letters of credit/proof of payment from the principal;
 6. Purchase orders;
 7. Proof of acceptance of the purchase order;
 8. Bills of lading/Delivery Receipts

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

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

SECTION 5. Criteria for Exemption. In order to determine whether an applicant establishment is qualified for exemption, the following criteria shall be used:

- a. In the case of retail/service establishment, the latter must be:
 - i. engaged in the retail sale of goods or services to end-user for personal or household use; and
 - ii. regularly employing not more than 10 workers regardless of status.
- b. In the case of distressed establishment:
 - i. For stock corporations/ cooperatives, deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order amounts to 25% or more impairment on paid-up capital or total invested capital, or registers a capital deficiency (i.e. negative stockholders' equity) as of the last full accounting period preceding the effectivity of the Order:
 - ii. For single proprietorships/partnership, the accumulated losses for the last two full accounting periods and interim period, if any, immediately preceding the effectivity of the Order amounts to 25% or more of the total invested capital or the establishment registers a capital deficiency (i.e. negative net worth) as of the last full accounting period immediately preceding the Order.

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.

- iii. For non-stock non-profit organizations, the decline in total revenues during the year preceding the effectivity of the Order have declined by at least 10 percent from the previous year.
- iv. For banks and quasi-banks under receivership/liquidation, a certification from the BSP that it is under receivership or liquidation on account of insolvency as provided in Section 30, R.A. 7653 otherwise known as the New Central Bank Act.

Banks under controllership/conservatorship may apply for exemption as a distressed establishment under Section 5(b) hereof.

- c. In the case of garment and textile exporters/indirect exporters.
 - i. the applicant must have at least 50% export sales in 1995;
 - ii. the applicant must have forward contracts executed on or twelve (12) months before 16 January 1996;
 - iii. the applicant must be engaged in the manufacture or processing of garments or textile;

SECTION 6. Extent of Exemption. The Board has the discretion to grant full or partial exemption with respect to the amount and the period of exemption but in no case shall it exceed one (1) year from the effectivity of the Order.

SECTION 7. Effect of Filing of an Application for Exemption. Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be 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 8. Effect of Disapproved Application. 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 interest of one percent (1%) per month retroactive to 02 February 1996.

SECTION 9. Motion for Reconsideration. An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from receipt of the decision, stating the particular grounds upon which the motion is based, copy furnished the other party 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.

SECTION 10. 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 date of receipt of the decision. The appeal must be filed in the manner prescribed by the Commission and must be based on any of the following grounds:

- a. non-conformity with the prescribed guidelines/procedures on exemption;
- b. prima facie evidence of grave abuse of discretion on the part of the Board; or
- c. question of law

RULE IV **CREDITABLE INCREASE**

SECTION 1. Organized Establishments. Wage increases granted by an employer in an organized establishment within three (3) months prior to the effectivity of the Order shall be credited as compliance with the prescribed increase set forth therein, provided that an agreement to this effect has been forged between the parties or a provision in the collective bargaining agreement allowing creditability exists.

In case the increases given are less than the prescribed adjustment, the employer shall pay the difference. Such increases shall not include anniversary increases, merit wage increases, and those resulting from the regularization or promotion of employees.

SECTION 2. Unorganized Establishments. In unorganized establishments, wage increases granted by the employer within six (6) months prior to the effectivity of the Order shall be credited as compliance.

In case the increases given are less than the prescribed adjustment, the provisions of the last paragraph of the preceding Section shall be applied.

RULES V

WAGE DISTORTION

SECTION 1. Effect on Existing Wage Structure. Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct 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 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.

Where the application of the wage increase prescribed in the Order results in distortions in the wage structure within the establishment, the wage distortions may be resolved using the following formula:

$$\frac{\text{Minimum Wage under WO-NCR-03}}{\text{Present Salary}} \times \text{Minimum Wage Adjustment} = \text{Amount of wage Adjustment due to distortion}$$

SECTION 2. Effect of Dispute. The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of the wage increase prescribed in the Order.

RULE VI

SPECIAL PROVISIONS

SECTION 1. Complaints for Non-Compliance. Complaints for non-compliance with the wage increase set forth in the Order shall be filed with the Regional Office of the Department and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

SECTION 2. 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, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and employers or employer practices or policies.

SECTION 3. Penal Provision. Pursuant to the provisions of Section 12 of Republic Act No. 6727, 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 not exceeding ₱ 25,000.00 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 officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner.

SECTION 4. Prohibition Against Injunction. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceeding before the Board.

SECTION 5. 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 6. Effectivity. This Rules shall take effect on 02 February 1996.

Done in Manila, Republic of the Philippines this 6th day of February 1996.

(SGD) DANIEL R. ANG
3. Workers Representative

*I abstain consistent with my position
vis-à-vis W.O. NCR-04*
(SGD) VICENTE LEOGARDO, JR.
Employers Representative

Took no part.

I abstained.

GERMAN N. PASCUA, JR.
4. Workers Representative

(SGD) LUWINA S. ENECIO
Vice-Chairman

(SGD) CLETO T. VILLATUYA
Employers Representative

(SGD) MARCELINA E. BACANI
Vice-Chairman

(SGD) ROMEO A. YOUNG
Chairman

Approved this 14th day of February 1996.

(SGD) LEONARDO A. QUISUMBING
Secretary of Labor and Employment

ANNEX "A"

Recommended Computation of Equivalent Monthly Rates

For those who are required to work everyday including Sundays or rest days, special days and holidays

$$\begin{aligned} \text{Equivalent Monthly Rate (EMR)} &= \frac{\text{Applicable Daily Wage Rate or ADR} \times 391.5}{12} \\ &= \begin{array}{r} 302.0 \quad - \text{ ordinary working days} \\ 18.0 \quad - \text{ 9 regular holidays} \times 200\% \\ 2.6 \quad - \text{ 1 regular holiday falling on last Sunday of August} \times 200\% + (30\% \text{ of } 200\%) \\ 66.3 \quad - \text{ 51 rest days} \times 130\% \\ \underline{2.6} \quad - \text{ 2 special days} \times 130\% \\ 391.5 \text{ days} \end{array} \end{aligned}$$

For those who do not work but are considered paid on rest days and holidays

$$\begin{aligned} \text{Equivalent Monthly Rate (EMR)} &= \frac{\text{ADR} \times 365}{12} \\ &= \begin{array}{r} 302 \quad - \text{ ordinary working days} \\ 2 \quad - \text{ special days} \\ 51 \quad - \text{ rest days} \\ \underline{10} \quad - \text{ regular holidays} \\ 365 \text{ days} \end{array} \end{aligned}$$

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

$$\begin{aligned} \text{Equivalent Monthly Rate (EMR)} &= \frac{\text{ADR} \times 314}{12} \\ &= \begin{array}{r} 302.0 \quad - \text{ ordinary working days} \\ 2.6 \quad - \text{ 2 special days (if worked)} \times 130\% \\ \underline{10.0} \quad - \text{ regular holidays} \\ 314.6 \text{ days} \end{array} \end{aligned}$$

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

$$\begin{aligned} \text{Equivalent Monthly Rate (EMR)} &= \frac{\text{ADR} \times 262.6}{12} \\ &= \begin{array}{r} 250.0 \quad - \text{ ordinary days} \\ 2.6 \quad - \text{ 2 special days (if worked)} \times 130\% \\ \underline{10.0} \quad - \text{ regular holidays} \\ 262.6 \text{ days} \end{array} \end{aligned}$$

Note: Using the above indicated factors (a factor representing number of days as multiplier), the basic wage for the worked days and the holiday pay for the ten regular days are included in the monthly rates to be derived. Thirty percent (30%) rest day premium pay has been integrated in factor 391.5 for all Sundays/rest days in a year including the last Sunday of August and in factors 314.6 and 262.6 for the two special days (November 1 and December 31) under Executive Order No. 203.