

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-05
PROVIDING AN INCREASE IN THE REGIONAL MINIMUM WAGE

WHEREAS, there has been a series of adjustments in the prices of oil and other petroleum products by reason of the on-going deregulation of the Philippine Oil Industry thereby resulting in substantial increases in transportation fares, and in the retail prices of kerosene and liquefied petroleum gas;

WHEREAS, due to these price adjustments, the purchasing power of the peso has been eroded since the last wage increase was given;

WHEREAS, adhering to the principle of providing safety net measures to the most vulnerable of workers necessitates adjustment in the minimum wage rates to enable the workers to cope with the rising standard of living;

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. Upon the effectivity of this Wage Order, the prescribed minimum wage rate of ONE HUNDRED SIXTY FIVE PESOS (P165.00) per day for all private sector workers and employees in the National Capital Region shall be increased by TWENTY PESOS (P20.00) per day to be given in the following manner:

AMOUNT OF INCREASE	EFFECTIVITY
P15.00 per day	upon effectivity of this Order
P5.00 per day	May 1, 1997

Section 2. The adjustments in the minimum wage rates of other categories of workers receiving a prescribed minimum wage rate of less than ONE HUNDRED SIXTY FIVE PESOS (P165.00) per day shall be given in a staggered manner for a period of two (2) years. To effect a uniform minimum wage rate, the increase in minimum wage mandated herein shall be given on top of the wage increases granted under Wage Order No. NCR-04 and NCR-04-A, and in the manner prescribed in the Rules Implementing this Order.

Section 3. The new minimum wage rates prescribed under this Order shall apply to all workers in the private sector regardless of their position, designation or status and irrespective of the method by which their wages are paid.

Section 4. Exempted from the provisions of this Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Section 5. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 1996-1997 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 1997-1998.

Private educational institutions which did not increase their tuition fees for the School Year 1996-1997 may defer compliance with the provisions of this Wage Order until School Year 1997-1998.

In any case, all private educational institutions shall implement the increase in the daily minimum wage rate prescribed herein starting School Year 1997-1998.

Section 6. 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 7. 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 8. 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.

Section 9. 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 Guidelines No. 01, series of 1996;
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 21, 1997 may be exempt during the lifetime of the said contract but not to exceed twelve (12) months from the effectivity of this Order.

Section 10. All applications for exemption from compliance with this Order shall be filed within sixty (60) days from the date of the publication of the Rules Implementing this Order. 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 11. 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 12. 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 13. 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 14. Where the application of the wage increase prescribed in this Order results in distortions in the wage structure within the establishment, the wage distortions may be resolved using the following formula:

$$\frac{\text{Minimum Wage under WO-NCR-04}}{\text{Present Salary}} \times \text{Minimum Wage Adjustment} = \text{Amount of adjustment due to distortion}$$

Section 15. 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 16. 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 17. 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 18. 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, 21 January 1997

Dissenting in a separate opinion.

(SGD) VICENTE LEOGARDO, JR.
Employers' Representative

Dissenting in a separate opinion.
(SGD) CLETO T. VILLATUYA
Employers' Representative

Concurring and Dissenting in a separate

opinion.
(SGD) DANIEL R. ANG
Labor Representative

Concurring in a separate opinion.
(SGD) GERMAN N. PASCUA, JR.
Labor Representative

(SGD) LUWINA S. ENECIO
A. Vice-Chairman

(SGD) JOSELITO C. DE VERA
Vice-Chairman

(SGD) ROMEO A. YOUNG
Chairman

RULES IMPLEMENTING WAGE ORDER NO. NCR-05

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 16 of Wage Order No. NCR-05, the following rules are hereby issued for guidance and compliance by all concerned:

RULE I GENERAL PROVISIONS

SECTION 1. Title. This Rules shall be known as "The Rules Implementing Wage Order No. NCR-05";

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

- a. "Order" means Wage Order No. NCR-05;
- 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. "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location.

For purposes of determining eligibility for exemption, establishments under the same owner/s but separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.

- j. "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use.

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

- k. "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;
- l. "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 whose capitalization does not exceed ₱1.5 million regardless of previous registration with the defunct NACIDA;
- m. "Distressed Establishments" refer to establishments which meet the criteria enumerated in Section 3A of the NWPC Guidelines No. 01 Series of 1996 known as Rules on Exemption From

Compliance with the Prescribed Wage Increases/Cost of Living Allowances Granted By The Regional Tripartite Wages and Productivity Board;

- n. "*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 partnerships and single proprietorships.
- o. "*Full Accounting Period*" refers to a period of twelve (12) months or one year of business operations.
- p. "*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 adjustments and other capital adjustments.
- q. "*Stock Corporation*" refers to one organized for profit and issues shares of stock to its members.
- r. "*Non-stock, Non-profit Organization*" refers to one organized principally for public purposes such as charitable, educational, cultural or similar purposes and does not issue shares of stock to its members.
- s. "*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.
- t. "*Single Proprietorship*" refers to a business unit owned and controlled by only one person.
- u. "*Cooperative*" refers to a duly registered association of persons who voluntarily join together to form a business establishment which they themselves own, control and patronize, and which may fall under any of the following types: credit, consumers, producers, marketing, service or multi-purpose.
- v. "*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 or 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 exporters are usually paid in Philippine currency.
- w. "*Indirect exporter*" means a person, firm or corporation who performs any production process for a manufacturer or exporter.
- x. "*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 21 January 1997;
- y. "*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;
- z. "*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 a 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. Amount and Effectivity of Increase. Upon the effectivity of the Order, the prescribed minimum wage rate of ONE HUNDRED SIXTY FIVE PESOS (P165.00) per day for all private sector workers and employees in the National Capital Region shall be increased by TWENTY PESOS (P20.00) per day to be given in the following manner:

AMOUNT	EFFECTIVITY
₱15.00 per day	06 February 1997
₱ 5.00 per day	01 May 1997

SECTION 2. 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 sixty five pesos* (₱165.00) 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 3. Application to Other Categories of Workers. The adjustments in the minimum wage rates of other categories of workers shall be given in a staggered manner for a period of two (2) years. To effect a uniform minimum wage rate in the Region, the increase in minimum wage mandated in the Order shall be given on top of the wage increases granted under Wage Order No. NCR-04 and NCR-04-A, and in the following manner:

3. EFFECTIVITY AND AMOUNT OF ADJUSTMENTS
IN MINIMUM WAGE RATES OF OTHER CATEGORIES OF WORKERS
(in pesos per day)

SECTOR/INDUSTRY	Prescribed Minimum Wage Rates as of Jan 1 '97	AMOUNT OF WAGE ADJUSTMENTS							Prescribed Minimum Wage Rates by Jan 1 '99
		May 1, 1997	January 1, 1998			January 1, 1999			
		Wage Order No. NCR-05	Wage Order No. NCR-04	Wage Order No. NCR-05	Total Ad-just-ments	Wage Order No. NCR-04	Wage Order No. NCR-05	Total Ad-just-ments	
AGRICULTURE									
Plantation	160.00	+7.00	+5.00	+7.00	=12.00	-	+6.00	6.00	185.00
Non-Plantation	151.50	+7.00	+7.00	+7.00	=14.00	+6.50	+6.00	12.50	185.00
COTTAGE/HANDICRAFT									
Employing more than 30 workers	157.00	+7.00	+4.00	+7.00	=11.00	+4.00	+6.00	10.00	185.00
Employing not more than 30 workers	156.00	+7.00	+5.00	+7.00	=12.00	+4.00	+6.00	10.00	185.00
PRIVATE HOSPITALS With bed capacity of 100 or less	165.00	+7.00	-	+7.00	= 7.00	-	+6.00	6.00	185.00
RETAIL/SERVICE									
Employing 11 to 15 workers	165.00	+7.00	-	+7.00	= 7.00	-	+6.00	6.00	185.00
Employing not more than 10 workers	151.00	+7.00	+7.00	+7.00	=14.00	+7.00	+6.00	13.00	185.00

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 1996-1997 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 1997-1998.

Private educational institutions which did not increase their tuition fees for the School Year 1996-1997 may defer compliance with the provisions of the Order until School Year 1997-1998.

In any case, all private educational institutions shall implement the increase in the daily minimum wage rate prescribed in the Order starting School Year 1997-1998.

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 be 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:

$$1. \quad \frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}} \times 100 = \% \text{ increase}$$

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.

The wage rates of workers who are paid by results shall continue to be established by the Department through time and motion studies, an individual/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 06 February 1997 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 households or domestic helpers and persons employed in the personal service of another, including family drivers.

SECTION 2. Who May Be Exempted. 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 upon application with the Board and in accordance with the in NWPC Guidelines No. 01, series of 1996.
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 21 January 1997 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 service or by registered mail. The date of mailing shall be deemed as the date of filing.

All applications 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. For corporations, cooperatives, single proprietorships, partnerships, non-stock, non-profit organizations:

- a. Audited financial statements (together with the Auditor's opinion and notes thereto) for the last two full accounting periods immediately preceding the effectivity of the Order filed with and stamped "received" by the BIR and SEC;
- b. Audited interim quarterly financial statements (together with the Auditor's opinion and notes thereto) for the period immediately preceding the effectivity of the Order;
- c. Income tax returns for the last two taxable periods filed with and stamped "received" by the BIR;
- d. Quarterly income tax returns immediately preceding the effectivity of the Order filed with and stamped "received" by the BIR.

2. For Banks and Quasi-Banks

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

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 employed in the establishment and their corresponding wage rates/structure, and existing union/s if any;

- 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 other 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 receipt 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-users 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, the accumulated losses for the last two full accounting periods and interim period, if any, immediately preceding the effectivity of the Order have resulted to 20% 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/partnerships, the accumulated losses for the last two full accounting periods and interim period, if any, immediately preceding the effectivity of the Order amounts to 20% 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.
- 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 1996;
 - ii. the applicant must have forward contracts executed on or twelve (12) months before 21 January 1997;
 - 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. Application for Projects/Branches/Divisions. Where the exemption being sought for is for a particular project/branch/division not separately registered and licensed, the consolidated audited financial statements of the establishment shall be used as basis for determining its distressed condition.

SECTION 9. Distressed Principal. Exemption granted to a distressed principal shall not extend to its contractor in case of contract(s) for construction, security, janitorial and/or similar services with respect to the employees of the latter assigned to the former.

SECTION 10. 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 06 February 1997.

SECTION 11. 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 12. 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. questions 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.

RULE 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:

$$\frac{\text{Minimum Wage under WO-NCR-04}}{\text{Present Salary}} \times \text{Minimum Wage Adjustment} = \text{Amount of wage Adjustment due to distortion}$$

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 P25,000.00 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 06 February 1997.

Done in Manila, Republic of the Philippines this ___th day of January 1997.

(SGD) DANIEL R. ANG
Workers Representative

(SGD) VICENTE LEOGARDO, Jr.
Employers Representative

(SGD) GERMAN N. PASCUA, Jr.

(SGD) CLET0 T. VILLATUYA

Workers Representative

(SGD) LUWINA S. ENECIO
Vice- Chairman

Employers Representative

(SGD) JOSELITO C. DE VERA
Vice-Chairman

(SGD) ROMEO A. YOUNG
Chairman

Approved this __th day of February 1997.

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