



Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region VII, Central Visayas



WAGE ORDER NO. ROVII-16

**ESTABLISHING INCREASE IN MINIMUM WAGE RATES
IN CENTRAL VISAYAS**

WHEREAS, Republic Act 6727 otherwise known as the Wage Rationalization Act of 1989 mandated the Regional Tripartite Wages and Productivity Boards to determine and fix the minimum wages in their respective Regions;

WHEREAS, on April 19, 2011, the Associated Labor Unions - Trade Union Congress of the Philippines (ALU-TUCP) filed a Petition for a One Hundred (P100.00) per day across-the-board wage increase;

WHEREAS, Alliance of Progressive Labor (APL), Grand Majestic Convention Center Employees Union (GMCC-EU), and Public Interest Advocacy and Litigation Office (PIALO, Inc.) filed on May 6, 2011 a Petition seeking for an across-the-board wage adjustment in the Region in the amount of One Hundred Twenty Eight and Forty Centavos (P128.40) per day;

WHEREAS, the two petitions were filed within the twelve (12) month period since the latest Wage Order No. 15 took effect on September 1, 2010;

WHEREAS, based on Section 3, Rule IV of the Amended Rules of Procedure on Minimum Wage Fixing (NWPC Guidelines No. 1 Series of 2007), the Board cannot entertain a petition for wage increase for a period of twelve (12) months from effectivity of the last Wage Order unless there exists a supervening condition

WHEREAS, in order to assess existence of supervening condition, Board conducted a series of Provincial Review and Assessment of the Regional Economy with Stakeholders which were conducted in Cebu City, Provinces of Negros Oriental/Siquijor and Bohol on May 26, 2011, June 16, 2011 and June 23, 2011, respectively;

WHEREAS, on July 14, 2011, the Board declared the existence of supervening condition in Central Visayas which was subsequently confirmed by the National Wages and Productivity Commission on July 25, 2011 per NWPC Resolution No. 6 Series of 2011;

WHEREAS, after publication of petitions and giving due notice to all concerned sectors, a region-wide public hearing was held on August 23, 2011 in Cebu City;

WHEREAS, as a result of its periodic and continuous review on the socio economic factors and taking into considerations the issues ventilated by the concerned stakeholders, the Board finds the need to adjust the existing minimum wage rates in the Region;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, the Regional Tripartite Wages and Productivity Board, Region VII, hereby issues this Wage Order:

Section 1. Upon effectivity of this Wage Order, the daily minimum wage rates of all minimum wage private sector workers and employees shall be increased by Twenty Pesos (~~P=20.00~~). The new daily minimum wage rate in the region for each area classification including agriculture sugar and sugar mills shall be as follows:

Area Classification	Non Agriculture	Agriculture		Sugar Mills
		Non sugar	Sugar	
Class A	P=305.00	P=287.00	P=255.00	P=275.00
Class B	P=285.00	P=270.00		
Class C	P=275.00	P=255.00		
Class D	P=260.00	P=240.00		

Section 2. COVERAGE. The adjustments prescribed under this Order shall apply to all minimum wage private sector workers and employees in the region, regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid.

Not covered from the provisions of this order are household or domestic helpers; persons in the personal service of another, including family drivers; and workers of registered Barangay Micro Business Enterprises with valid Certificates of Authority.

Section 3. BASIS OF MINIMUM WAGE. The minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piecework, "takay" or task basis, shall be entitled to receive not less than the prescribed minimum wage increase per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 5. WAGES OF SPECIAL GROUPS OF WORKERS. Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in this Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new prescribed wage rates.

All qualified handicapped workers shall receive the full amount of increase in this Order pursuant to R.A. 7277.

Section 6. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2011-2012 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2012-2013.

Private educational Institutions which have not increased their tuition fees for the School Year 2011-2012 may defer compliance with the increase prescribed herein until the beginning of School Year 2012-2013.

In any case, private educational Institutions shall implement the increase herein starting School Year 2012-2013.

Section 7. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers 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 increase or new minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8. EXEMPTION. Distressed establishments may be exempted upon application with and as determined by the Board, in accordance with applicable criteria on exemption as provided in the NWPC Guidelines No. 2. (Amended Rules on Exemption)

Section 9. PRODUCTIVITY-BASED WAGES. In order to sustain rising level of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes, such as time and motion studies, good housekeeping, quality circles, labor-management cooperation, as well as implement gain sharing programs. Accordingly, the Regional Board shall provide the necessary studies and technical assistance pursuant to RA 6971, the Productivity Incentives Act of 1990.

Section 10. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of this Order.

Section 11. EFFECT OF FILING AN APPEAL. The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding increase to employees affected by the Order in the event such Order is affirmed.

Section 12. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the increases in the wage rates under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Art. 124 of the Labor Code as amended.

Section 13. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution, which may be undertaken against those who fail to comply.

Section 14. NON-DIMINUTION OF BENEFITS. Nothing in this Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 15. PENAL PROVISION. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase/allowance/rates in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 16. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board.

Section 17. FREEDOM TO BARGAIN. This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 18. REPORTING REQUIREMENT. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified Itemized listing of their labor component to the Board not later than January 31, 2011 and every year thereafter in accordance with the form prescribed by the Commission.

Section 19. REPEALING CLAUSE. All orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

Section 20. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 21. IMPLEMENTING RULES. The Board shall prepare the necessary rules to implement this Order subject to approval of the Secretary of Labor and Employment.

Section 22. EFFECTIVITY. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the region.

CEBU CITY, PHILIPPINES, August 31, 2011

APPROVED:



ATTY. HIDELITO S. PASCUAL
Member, Employer's Representative

I am reluctantly objecting to the wage increase of P20.00 a day, the same being insignificant.



ATTY. ERNESTO F. CARREON
Member, Labor Representative



CHARLES M. STREEGAN
Member, Employer's Representative



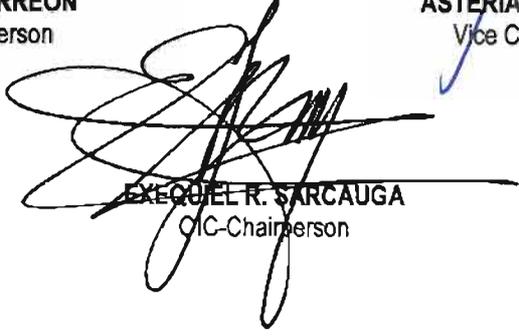
MARIANITO B. VENTURA
Member, Labor Representative



EFREN B. CARREON
Vice Chairperson



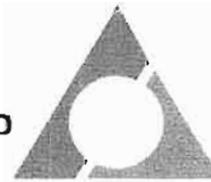
ASTERIA C. CABERTE
Vice Chairperson



EXEQUIEL R. SARCAUGA
CIC-Chairperson



Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region VII, Central Visayas



**IMPLEMENTING RULES AND REGULATIONS OF
WAGE ORDER NO. ROVII-16**

Pursuant to Section 6, Rule IV of the Amended Rules of Procedure on Minimum Wage Fixing and Section 21 of Wage Order No. ROVII-16, 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 “Implementing Rules and Regulations of Wage Order No. ROVII-16”.

Section 2. Definition of Terms. As used in this rules:

- a) **“Order”** means Wage Order No. ROVII-16.
- b) **“Commission”** refers to the National Wages and Productivity Commission.
- c) **“Board”** means the Regional Tripartite Wages and Productivity Board, Region VII.
- d) **“Department”** means the Department of Labor and Employment.
- e) **“Region VII”** is the geographic area in Central Visayas covering the Provinces of Cebu, Bohol, Negros Oriental and Siquijor and its component cities.
- f) **“Agriculture”** refers to farming in all its branches and among others, include the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural and 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) **“Class A”** refers to the Cities of Carcar, Cebu, Danao, Lapu-Lapu, Mandaue, Naga and Talisay and the Municipalities of Compostela, Consolacion, Cordova, Liloan, Minglanilla, and San Fernando or (expanded Metro Cebu).
- h) **“Class B”** refers to the Cities of Toledo and Bogo and the rest of the municipalities in the Province of Cebu except the municipalities in the Islands of Bantayan and Camotes.
- i) **“Class C”** refers to the cities and municipalities in the Provinces of Bohol and Negros Oriental.
- j) **“Class D”** refers to the municipalities in the Province of Siquijor and municipalities in the Islands of Bantayan and Camotes.
- k) **“Establishments”** refer to economic units which engage in one or predominantly one kind of economic activity at a single fixed location. For purposes of determining eligibility, 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.
- l) **“Distressed Establishments”** refer to establishments which meet the criteria enumerated in Section 3A of the Amended Rules on Exemption (NWPC Guidelines No 02, Series of 2007).
- m) **“Barangay Micro-Business Enterprise (BMBE)”** refers to any registered business entity or enterprise granted a Certificate of Authority pursuant to Republic Act 9178.
- n) **“Paid-up Capital”** refers to the total amount of shareholder capital that has been paid by shareholders.
- o) **“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.
- p) **“Capital Impairment”** refers to the diminution of capital due to accumulated losses.
- q) **“Stockholders’ Equity”** refers to the residual interest in the assets of an entity that remains after deducting its liabilities. It is total assets minus total liabilities. It is the same as equity and net worth.

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Handwritten initials 'Jim' and a mark resembling a stylized '2' or '8' on the right margin.

- r) **"Full Accounting Period"** refers to a period of twelve (12) months or one year of business operations.
- s) **"Interim Period"** refers to a financial reporting period shorter than a full financial year (most typically a quarter or half year).
- t) **"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.
- u) **"Net Loss"** refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues.
- v) **"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 stocks to its members.
- w) **"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
- x) **"Single Proprietorship"** refers to a business unit owned and controlled by only one person.
- y) **"Cooperative"** refers to a duly registered association pursuant to RA 6938 (Cooperative Code of the Philippines) and other laws.
- z) **"Quasi-Banks"** refer to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.
- aa) **"Conservatorship"** refers to remedy resorted to by the Monetary Board in case a bank or quasi-bank is in a state of continuing inability or unwillingness to maintain condition of liquidity deemed adequate to protect the interests of the depositors and creditors. A conservator is appointed to manage the establishment in order to restore its viability.
- bb) **"Receivership/Liquidation"** refers to a remedy resorted by the Monetary Board in case a bank or quasi-bank is (a) unable to pay its liabilities as they become due in the ordinary course of business; (b) has insufficient realizable assets as determined by the Bangko Sentral ng Pilipinas to meet its liabilities; (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has willfully violated a cease and desist order under Sec. 37 that has become final involving acts or transactions which amount to fraud or dissipation of the assets of the institution.
- cc) **"Under Corporate Rehabilitation"** refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction.

Rule II- Wage Increase

Section 1. Amount of Increase. Upon effectivity of this Wage Order, the daily minimum wage rates of all minimum wage private sector workers and employees shall be increased by Twenty Pesos (P=20.00). The new daily minimum wage rate in the region for each area classification including agriculture sugar and sugar mills shall be as follows:

Area Classification	Non Agriculture	Agriculture		Sugar Mills
		Non sugar	Sugar	
Class A	P=305.00	P=287.00	P=255.00	P=275.00
Class B	P=285.00	P=270.00		
Class C	P=275.00	P=255.00		
Class D	P=260.00	P=240.00		

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Section 2. Coverage. a). The wage increase prescribed in the Order shall apply to all private sector minimum wage workers and employees in the Region whether agricultural or non-agricultural, regardless of their position, designation, or status and irrespective of the method by which their wages are paid.

b). Not covered from the provisions of the Order are household or domestic helpers, workers employed in the personal service of another, including family drivers and workers of duly registered Barangay Micro-Business Enterprises with Certificates of Authority.

c). Wages of all workers and employees whose rates are less than the prescribed minimum wage rates pursuant to Sections 1 and 2 of the Order shall be adjusted accordingly.

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Section 3. Basis of Minimum Wage Rates. The minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight (8) hours work per day.

Section 4. Application to Private Educational Institutions. a) In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2011-2012 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting School Year 2012-2013.

b) Private educational institutions which have not increased their tuition fees for the School Year 2011-2012 may defer compliance with the increase prescribed herein until the beginning of School Year 2012-2013.

c) In any case, private educational institutions shall implement the increase prescribed herein starting School Year 2012-2013.

Section 5. Application to Contractors. In the case of contracts for construction projects and for security, janitorial 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 jointly and severally liable with his principal or client.

Section 6. Workers Paid by Results. a) All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the applicable minimum wage rates prescribed under the Order for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

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 rules and regulations.

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

1.
$$\frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}} \times 100 = \text{Percent increase};$$
2. Existing rate/piece X Percent increase = Increase in rate/piece;
3. Existing rate/piece + Increase in rate/piece = Adjusted rate/piece

* Where AMW is the applicable minimum wage rate.

Section 7. Mobile Workers. The wage increase of workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

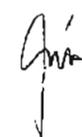
Section 8. Branch Workers. The wage increase of workers working in branches or agencies of establishments within the Region shall be those applicable in the place where they are stationed.

Section 9. Transfer / Assignment of Workers. The transfer/assignment of workers to areas with lower wage rates shall in no case result to reduction of higher wages being enjoyed by the worker prior to such transfer. However, where the worker is transferred/assigned to an area with higher wage, he shall be entitled to the higher wage therein.

Section 10. Wages of Special Groups of Workers. a) Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in the Order.

b) All recognized learnership and apprenticeship agreements entered into before the effectivity of the Order shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the adjustments prescribed under the Order.

c) All qualified handicapped workers shall receive the full amount of increase in this Order pursuant to R.A. 7277.



Section 11. Suggested Formulae in Determining the Equivalent Monthly Regional Minimum Wage Rates. Without prejudice to existing company practices, agreements or policies, the following formulae may be used in determining the Estimated Equivalent Monthly Rates (EEMR) of the employees:

For monthly-paid employees:

$$\frac{\text{Applicable Daily Rate} \times 365}{12} = \text{EEMR}$$

where 365 days/year = 298 ordinary working days
 52 rest days
 12 regular holidays
 3 special days
 365 Total equivalent no. of days in a year

For daily paid employees:

- a. For those who are required to work every day including Sundays, or rest days, special days and regular holidays

$$\frac{\text{Applicable Daily Rate} \times 393.50}{12}$$

where 393.50/ year = 298 ordinary working days
 67.60 52 rest days x 130%
 24 12 regular holidays x 200%
 3.90 3 special days x 130%
 393.50 Total equivalent no. of days in a year

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

$$\frac{\text{Applicable Daily Rate} \times 313}{12}$$

where 313/ year = 298 ordinary working days
 12 12 regular holidays
 3 special days
 313 Total equivalent no. of days in a year

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

$$\frac{\text{Applicable Daily Rate} \times 261}{12}$$

where 261.00/ year = 246 ordinary working days
 12 12 regular holidays
 3 special days
 261 Total equivalent no. of days in a year

Section 12. Appeal to the Commission. Any party aggrieved by the Wage Order may file an appeal with the Commission through the Board within ten (10) calendar days from the publication of the Order. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

Section 13. Grounds for Appeal. An appeal may be filed on the following grounds:

- a. Non-conformity with the prescribed guidelines and/or procedures
- b. Grave abuse of discretion
- c. Questions of law.

Section 14. Effect of Appeal. The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

b. Partial Exemption:

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

c. Conditional Exemption

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

3. For Non-stock, Non-profit Organizations

a. Full Exemption:

- a.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period; or
- a.2. When an establishment registers capital deficiency i.e., negative fund balance/members' contribution as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.

b. Partial Exemption:

- b.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but not more than 20% of the fund balance/members' contribution at the beginning of the period.

c. Conditional Exemption:

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

4. For Banks and Quasi-banks

a. Under receivership/liquidation

- a.1. Exemption may be granted to a bank or quasi-bank under receivership or liquidation when is a certification from the Bangko Sentral ng Pilipinas that it is under receivership or liquidation as provided in Section 30 of RA 7653, otherwise known as the New Central Bank Act.

b. Under controllership/conservatorship

- b.1. A bank or quasi-bank under controllership/ conservatorship may apply for exemption as a distressed establishment under Section 3 of the Amended Rules on Exemption (NWPC Guidelines No 02, Series of 2007)

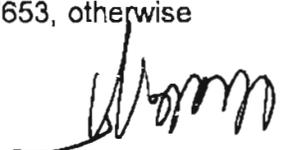
5. Establishments Under Corporate Rehabilitation

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

Section 5. Documents Required.

The following supporting documents shall be submitted together with the application:

Proof of notice of filing of the application to the President of the union/contracting party if one is organized in the establishment, or if there is no union, a copy of a circular giving general notice of the filing of the application to all the workers in the establishment. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the



application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

1. For Corporations, Cooperatives, Single Proprietorships, Partnerships, Non-stock, Non-profit Organizations.

a. Full or Partial Exemption

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

b. Conditional Exemption

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

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

2. For Banks and Quasi-banks

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

3. For Establishments Under Corporate Rehabilitation

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

Section 6. Extent and Duration of Exemption.

a.) Full exemption of one (1) year from effectivity of the Order may be granted to establishments that meet the applicable criteria for exemption under Section 3 of Amended Rules on Exemption (NWPC Guidelines No. 2, Series of 2007).

b.) Partial exemption of 50% with respect to the amount or period of exemption shall also be granted.

c.) Conditional exemption of one (1) year from effectivity of this Wage Order may likewise be granted. The conditional exemption shall be confirmed, as follows:

c.1 For Corporations

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

c.2 For Single Proprietorships and Partnerships

When net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review.

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

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

Section 7. Adoption of Productivity Programs. Establishments granted exemption are required to adopt productivity improvement initiatives or schemes to improve business viability. The Board shall provide technical assistance in the development of a productivity improvement program in the establishment.

Section 8. Application for Projects/Branches/Divisions. Where the exemption being sought 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 for Exemption. In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage increase/allowance as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

Section 11. Filing of Motion for Reconsideration. The 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 and shall state the particular grounds upon which the motion is based, copy furnished the other party and 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 to the Commission. Any party aggrieved by the decision of the Board may file an appeal with the Commission through the Board within ten (10) calendar days receipt of decision. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

Section 13. Grounds for Appeal. An appeal may be filed on the following grounds:

- a. Non-conformity with the prescribed guidelines and/or procedures on exemption;
- b. Prima facie evidence of grave abuse of discretion on the part of the Board; or
- c. Questions of law.

Section 14. Opposition. The appellee may file with the Board his reply or opposition to the appeal within ten (10) days from receipt of the appeal. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.

Section 15. Transmittal of Records. Within five (5) days upon receipt of the reply or opposition of the appellee or after the expiration of period to file the same, the entire records of the case which shall be consecutively numbered, shall be transmitted by the Board to the Commission.

Rule IV - Special Provisions

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, the voluntary arbitrator shall decide such dispute or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute shall have been referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

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

Section 2. Complaints for Non-Compliance. Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 3. Conduct of Inspection by the Department. The Department shall conduct inspections of establishments, as often as necessary, to determine whether the workers are paid the prescribed wage rates and other benefits granted by law or any Wage Order.



In the conduct of inspection in unionized companies, Department inspectors shall always be accompanied by the president or other responsible officer of the recognized bargaining unit or of any interested union. In the case of non-unionized establishments, a worker representing the workers in the said company will accompany the inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not concur with the findings of the labor inspector.

Section 4. Non-diminution of Benefits. Nothing in the Order and in this Rule shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and the employers.

Section 5. Productivity-Based Wages. In order to sustain rising level of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes, such as time and motion studies, good housekeeping, quality circles, labor-management cooperation, as well as implement gain sharing programs. Accordingly, the Regional Board shall provide the necessary studies and technical assistance pursuant to RA 6971, the Productivity Incentives Act of 1990.

Section 6. Penal Provision. Any entity that refuses or fails to pay any of the prescribed increases or adjustments in the wage rates made in accordance with this Order shall be punished in accordance with the provisions of Sec. 12, Art 127 of RA 6727 as amended by RA 8188, which provides as follows:

"Sec. 12. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay any of the prescribed increases or adjustments in the wage rates made in accordance with this Act shall be punished by a fine not less than Twenty-five thousand pesos (P25,000) nor more than One hundred thousand pesos (P100,000) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court: *Provided*, that any person convicted under this Act shall not be entitled to the benefits provided for under the Probation Law.

"The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: *Provided*, That payment of indemnity shall not absolve the employer from the criminal liability imposable under this Act.

"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."

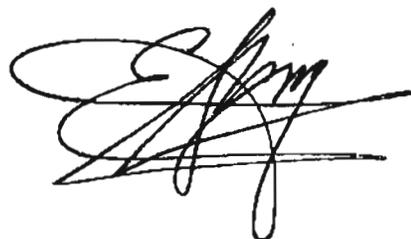
Section 7. Prohibition Against Injunction. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or Boards.

Section 8. Freedom to Bargain. The Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

Section 9. Reporting Requirements. Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2012 and every year thereafter in accordance with the form prescribed by the Commission.

Section 10. Repealing Clause. All orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

Section 11. Separability Clause. If any provision or part of the Order and this Rule, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.



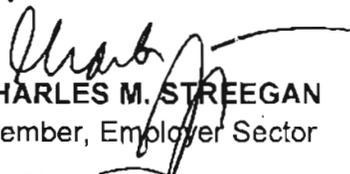
Section 12. Effectivity of Rules. This rule shall take effect on Sept. 22, 2011

Cebu City, Philippines, September 5, 2011

*It is hereby ordered
to the wage order to be
implemented for being insufficient*

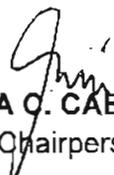

ATTY. HIDELITO S. PASCUAL
Member, Employer Sector


ATTY. ERNESTO F. CARREON
Member, Labor Sector


CHARLES M. STREEGAN
Member, Employer Sector


MARIANITO B. VENTURA
Member, Labor Sector


EFREN B. CARREON
Vice Chairperson


ASTERIA C. CABERTE
Vice Chairperson


EXEQUIEL R. SARCAUGA
OIC-Chairperson

Approved this 22nd day of September 2011


ROSALINDA DIMAPILIS- BALDOZ
Secretary, Department of Labor and Employment
Chairman, National Wages and Productivity Commission

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