

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-03

ESTABLISHING A NEW MINIMUM WAGE

WHEREAS, the real wage of workers has been eroded and it is necessary to adjust the minimum wage to meet the basic needs of workers and their families;

WHEREAS, there is also an equal need to consider fair return on capital invested and the capacity of employers to pay;

WHEREAS, our country is in need of foreign direct investors in order to boost the economy and support the present program of the President, His Excellency, Fidel V. Ramos, to make the country a newly industrialized country by year 2000;

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 of Region VII hereby issues this Wage Order:

Section 1. Upon effectivity of this Wage Order the Cost of Living Allowance (COLA) mandated pursuant to Wage Order No. ROVII-02-A shall be integrated to the basic pay of all workers;

Section 2. The minimum wage rates for all workers and employees in the private sector shall be increased by Ten Pesos (P10.00) in the cities of Cebu, Mandaue and Lapulapu; Five Pesos (P5.00) in the municipalities of Compostela, Liloan, Consolacion, Cordova, Talisay, Minglanilla, Naga, and the cities of Danao, Toledo, Dumaguete, Bais, Canlaon, and Tagbilaran.

Section 3. Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Section 4. The following establishments may likewise be exempted from the provisions of this Order upon application with and as determined by the Board, in accordance with the applicable rules and regulations to be issued by the Board and existing provisions of the Implementing Rules of the NWPC:

- a. Retail/Service establishments regularly employing not more than ten (10) workers;
- b. Distressed establishments defined under the Revised Guidelines issued by the NWPC;
- c. Establishments registered under RA 6810;
- d. Exporting firms, including indirect exporters with existing forward contracts with their foreign buyers/principals at the time of effectivity of this Wage Order may be exempted during the lifetime of the contract, however, not exceeding twelve (12) months from the effectivity of this Order.

Section 5. In the event that an application for exemption is denied, the employees shall receive the appropriate compensation due them as provided for by this Wage Order plus interest of one percent (1%) per month retroactive to the effectivity of this Wage Order.

Section 6. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage increase for covered 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 the construction/service contractor shall be jointly and severally liable with the principal client.

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. Where the application of the prescribed minimum wage increase under this Wage Order results in distortions of the wage structure in any establishment, such distortions shall be corrected using the procedure and specified under Article 124 of the Labor Code as amended.

Section 9. In case of educational institutions, the share of covered workers and employees in the increase of tuition fees during school year 1993-1994 pursuant to RA 6728 shall be considered as compliance for the wage increase prescribed herein for said School Year, Provided, the share satisfies the mandate of this Wage Order, otherwise, the difference shall be complied in the next school year 1994-1995.

Section 10. The Board shall prepare the necessary rules and regulations to implement this Wage Order, subject to the approval by the Secretary of Labor and Employment.

Section 11. Any employer who refuses to pay or fails to pay the minimum wage increase provided under this Wage Order and/or who fails to integrate the Cost of Living Allowance (COLA) pursuant to Wage Order No. ROVII-02-A shall be subject to the penalties specified under Republic Act 6727.

Section 12. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowances or other benefits under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between workers and employers.

Section 13. Should circumstances so warrant, the Board shall *motu proprio* review the wage structure in the region.

Section 14. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

Cebu City, Philippines, November 23, 1993.

Approved.

FABRECIANO P. CATIPAY
Member
Labor Sector

(SGD) HIDELITO S. PASCUAL
Member
Management Sector

Abstain
CELSO C. REALES
Member
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(SGD) ROGELIO Q. LIM
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(SGD) JOSE ROMEO C. ESCANDOR
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Chairman
Government Sector

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Department of Labor and Employment
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REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Region VII, Central Visayas

RULES IMPLEMENTING WAGE ORDER NO. ROVII-03

Pursuant to Section 5, Rule IV on the NWPC Rules of procedure on Minimum Wage Fixing and Section 10 of ROVII-03 the following rules are hereby issued for guidance and compliance by all concerned:

Section 1. DEFINITION OF TERMS. As used in this rules -

- a) "ORDER" means Wage Order No. ROVII-03;
- b) "COMMISSION" refers to the National Wages and Productivity Commission;
- c) "REGIONAL BOARD" means the Regional Tripartite Wages and Productivity Board;
- d) "REGION VII" refers to the geographic area in Central Visayas covering the provinces of Cebu, Bohol, Negros Oriental and Siquijor and its component cities;
- e) "CLASS AA" refers to the cities of Cebu, Mandaue and Lapulapu;
- f) "CLASS A" refers to the municipalities of Cordova, Compostela, Liloan, Consolacion, Talisay, Minglanilla and Naga;
- g) "CLASS B" refers to the cities of Danao, Toledo, Dumaguete, Bais, Canlaon and Tagbilaran;
- h) "CLASS C" refers to localities not otherwise indicated above;
- i) "RETAIL ESTABLISHMENT" is one principally engaged in the sale of goods to end-users for personal or household use and is generally recognized as such;
- j) "SERVICE ESTABLISHMENT" is one principally engaged in the sale of service to individuals or their own or household use and is generally recognized as such;
- k) "COTTAGE/HANDICRAFT ESTABLISHMENTS" 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 whose capitalization does not exceed P500,000.00 regardless of previous registration with the defunct NACIDA;
- l) "DISTRESSED ESTABLISHMENT" refer to establishments with capital impairment in the preceding year as defined by NWPC Rules on Exemptions or establishments incapable of rendering its debt services;
- m) "CAPITALIZATION" means paid-up capital in the case of a corporation, and total invested capital, in case of a partnership or single proprietorship;
- n) "DEPARTMENT" refers to the Department of Labor and Employment;
- o) "COLA" is the Cost-of- Allowance granted to workers pursuant to Wage Order No. ROVII-02-A
- p) "BASIC WAGE" means all remunerations or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost-of-living allowances, profit sharing payments, 13th month pay, and other monetary benefits which are not

considered part of or integrated into the regular salary of the workers on the date the wage order became effective;

- q) "MINIMUM WAGE RATE" is the lowest wage rate fixed by the Board, and which shall not be lower than the applicable statutory minimum wage rates;
- r) "WAGE DISTORTION" means a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among groups in an establishment as to effectively obliterate the distinction embodied in such wage structure based on skills, length of service or other logical basis of differentiation.

Section 2. COVERAGE a) The applicability of the new wage rate shall be determined on the basis of the employee's workplace. Should he be relocated, the higher rate in either locality should apply.

b) The wage order shall apply to all employers in the private sector of Region VII whether agricultural or non-agricultural, including undertakings, organizations and/or institutions primarily organized for non-profit except those mentioned hereunder:

- i) Household or domestic helpers, including family drivers and workers in the personal service of another;
- ii) Workers and employees in retail/service establishments regularly employing not more than 10 workers, when exempted from compliance for a period fixed by the Board in accordance with the guidelines issued by the Commission;
- iii) Workers and employees in distressed establishments, as defined by the NWPC guidelines, when exempted from compliance for a period fixed by the Board;
- iv) Workers and employees of exporting firms, including indirect buyers/principals at the time of effectivity of this Order, when exempted from compliance by the Board and in accordance with the guidelines that may be issued by the Commission.

Section 3. EFFECTIVITY. The Wage increase prescribed under the order shall take effect on December 20, 1993, fifteen (15) days following its complete publication in one (1) newspaper of general circulation in the region pursuant to Section 14 thereof.

Section 4. NATURE AND AMOUNT OF INCREASES. Effective December 20, 1993,

- a) The mandated COLA under Wage Order NO. ROVII-02-A shall be integrated to the basic wage;
- b) The daily minimum wage rates of covered workers and employees shall be increased as follows:

<u>Location</u>	<u>Amount</u>
Class AA	P10.00
Class A	5.00
Class B	5.00
Class C	Status Quo

Section 5. COLA INTEGRATION a) The mandated COLA integrated to the basic wage is One Hundred fifty PESOS (P150.00) and One Hundred PESOS (P100.00) in Class A and Class B areas respectively per Wage Order No. ROVII-02-A including establishments in Class B and C areas with gross sales of more than Ten Million PESOS (P10M) during the preceding year.

b) Integration to the basic pay of the mandated COLA under Wage Order No. ROVII-02-A prior to the issuance of this Order is deemed compliance thereto.

1/ Includes premium for holidays, special days and rest days.

2/ November 1 and December 31 under Executive Order (EO) No. 203 dated June 30, 1987.

Note: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being a regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them, is included in the ten regular holiday. For workers whose rest day for them, is included in the ten regular holidays. For workers whose rest days do not fall on Sundays, the number of rest days is 52 days as there are 52 weeks in a year.

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

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

Section 9. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. The wage increase prescribed for the private schools shall apply to all workers and employees entitled to the same. The share of the covered workers and employees on tuition fee increases during School Year 1993-1994, pursuant to RA 6728 shall be considered as compliance to this Order, PROVIDED, said share is at least equal to the increase prescribed in the Order.

In case the share is less than the mandated minimum wage increase, the difference shall be complied during School Year 1994-1995.

Section 10. APPLICATION TO CONTRACTORS a) In cases of contracts for construction projects entered into prior to the promulgation of the Wage Order, the principal or client shall make the necessary adjustments in the salary of the contractor's employees for the remaining work to include the minimum wage increase provided herein. 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 and/or client.

b) In the case of contracts for security, janitorial and similar services, the payment of the minimum wage increase of employees, shall be borne by the principal or client and the contract shall be deemed amended accordingly. In case they fail to pay the prescribed wage rates they shall be jointly and severally liable.

Section 11. EXEMPTION a) The following establishments may be exempted from compliance with the wage increase prescribed under the order upon application with and as determined by the Board in accordance with the rules prescribed by the Commission:

- 1) Retail/Service establishments regularly employing not more than ten (10) workers;
- 2) Distressed establishment as defined by the Revised Guidelines issued by the Commission or pursuant to paragraphed 1), Section 1 hereof,
- 3) Establishment registered under Republic Act 6810 otherwise known as "Kalakalan 20"; and
- 4) Exporting firms, including indirect exporters with existing forward contract with their foreign buyers/principals at the time of the effectivity of this Order may be exempted during the lifetime of the contract. In no case will the exemption exceed twelve (12) months.

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

c) Whenever an application has been duly filed with the Board, action by the Regional Office of the Department of Labor and Employment (DOLE) on any complaint for alleged non-compliance with the order shall be deferred pending resolution of the application.

d) In the event that the application for exemption is denied, the employers must pay the appropriate compensation due to the workers/employees as provided for under the order plus compounded interest of one percent (1%) per month retroactive to the date of its effectivity.

Section 12. WORKERS PAID BY RESULTS. a) All workers paid by results including those who are paid on piece work, takay, pakyaw, or task basis, shall receive not less than the applicable minimum wage rates prescribed under the order for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

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

- 1) $\frac{\text{Amount of Increase in AMW}}{\text{Previous AMW}} \times 100 = \text{Percent (\%) Increase};$
- 2) Existing Rate per Piece X Percent (%) Increase = Increase in Rate per Piece;
- 3) Existing Rate per Piece + Increase in Rate per Piece = Adjusted Rate per Piece

1/ Applicable Minimum Wage Rate

b) The wage rates of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code as amended and its implementing Regulations.

Section 13. WAGE DISTORTION. a) Where the application of the wage increase provided under the order results in distortion in the wage structure within an establishment, the employer and the employee shall negotiate to correct the distortions. Any dispute arising from wage distortion shall be resolved through the grievance procedure under the 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 twenty (20) days from the time said dispute was referred to voluntary arbitration.

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

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

d) Any issue involving wage distortion shall not be a ground for a strike/lockout.

Section 14. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with the wage increase provided in the order shall be filed with the Regional Office of the Department of Labor in the Region and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code as amended.

Section 15. REVIEW. In case supervening conditions take place in the Region within the next twelve (12) months from the effectivity of this Order, thereby resulting in gross economic reversals, the Board

may automatically review the prevailing wage structure and make the necessary wage adjustments if necessary.

Section 16. NON-DIMINUTION BENEFITS. Nothing in the order 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 of agreement between the workers and the employers or employer practices or policies.

Section 17. COMPLIANCE REPORT. All covered employers shall report to the Regional Tripartite Wages and Productivity Board, using NWPC Form No. 1, the minimum wage increases granted to their employees not later than January 30, 1994 and on the same date every year thereafter.

Section 18. PENAL PROVISION. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase under the order shall be punished by a fine not exceeding P25,000.00 and/or imprisonment 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 order.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to, the president, vice-president, chief executive officer, general manager, managing director or partner.

Section 19. EFFECTS 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.

Done in the City of Cebu, Republic of the Philippines, this 22nd day of December 1993.

FABRECIANO P. CATIPAY
Member
Labor Sector

(SGD) HIDELITO S. PASCUAL
Member
Management Sector

CELSO C. REALES
Member
Labor Sector

(SGD) ROGELIO Q. LIM
Member
Management Sector

(SGD) JOSE ROMEO C. ESCANDOR
Vice Chairman
Government Sector

(SGD) JOEL MARI S. YU
Vice Chairman
Government Sector

(SGD) BARTOLOME C. AMOGUIS
Chairman
Government Sector

Approved this 24th day of January 1994, subject to the following notations.

(SGD)MA. NIEVES R. CONFESOR
Secretary, Department of Labor and Employment

NOTATIONS

1. *The definition of "Distressed Establishment" shall be revised to read as follows:*

"Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines on Exemption.
2. *The Board shall issue supplemental guidelines on exemption covering exporting firms, including indirect exporters, to be approved by the National Wages and Productivity Commission.*
3. *The Wage Order was published on December 4, 1993. Hence, the date of effectivity shall be December 19, 1993.*
4. *The amount of COLA under Wage Order No. ROVII-02A to be integrated to the basic wage under Section 5 a) shall be revised to read as follows:*

"a) The mandated COLA under Wage Order No. ROVII-02A integrated to the basic wage is One Hundred Fifty PESOS (150.00) per month for establishments in Class AA and Class A areas and establishments with gross sales of Ten Million PESOS (P10M) or more in the immediate preceding year in Class B and C areas. The mandated COLA integrated to the basic wage for other establishments in Class B areas in One Hundred PESOS (P100.00) per month.
5. *The Board has to clarify under Section 9, Application to Private Educational Institutions, the date of effectivity of the Order for schools which did not increase tuition fees during School Year 1993-1994.*
6. *Section 10 b), Application to Contractors, shall be revised to read as follows to conform with the provision in the Wage Order:*

b) In the case of contracts for security, janitorial and similar services, the payment of the minimum wage increase of employees, shall be borne by the principal or client 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 service contractor shall be held jointly and severally liable with his principal or client.