

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-06
ESTABLISHING NEW MINIMUM WAGE RATES**

WHEREAS, the Board recognizes the need to adjust the minimum wage of workers to cushion the impact brought about by the latest economic crisis not only in the Philippines but also in the Asian region;

WHEREAS, there is also an equal need to consider the adverse results of the same crisis to the employers;

WHEREAS, the Board duly adheres to the policy of government to promote investment, create job opportunities and sustain employment;

WHEREAS, the Board recognizes the need to simplify the present wage structure in the Region;

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, Region VII hereby issues this Wage Order:

Section 1. AREA CLASSIFICATION. For purposes of determining the minimum wage, the Board hereby establishes the classification of different areas in the Region as follows: Class A comprises the cities of Cebu, Mandaue, Lapulapu and Danao and the municipalities of Talisay, Minglanilla, Naga, San Fernando, Carcar, Consolacion, Liloan, Compostela and Cordova; Class B comprises Toledo City and the rest of the municipalities of the province of Cebu except Bantayan and Camotes Island; Class C comprises the cities and municipalities of the provinces of Bohol and Negros Oriental and Class D comprises the municipalities of the Province of Siquijor and the Islands of Bantayan and Camotes.

Section 2. AMOUNT AND MANNER OF INCREASE. Upon the effectivity of this Order, the daily minimum wage rates for all the workers and employees in the private sector shall be increased by Ten pesos (P10.00) per day to be given in the following manner:

- i. Five pesos (P5.00) per day effective April 1, 1998; and
- ii. Additional Five pesos (5.00) per day effective October 1, 1998.

Section 3. UNIFORM WAGE RATE PER AREA CLASSIFICATION. a) To effect a uniform wage rate pursuant to Section 1 hereof, the prescribed minimum wage after full implementation of this Order for each area classification shall be as follows:

<u>Area Classification</u>	<u>Non-Agriculture Sector</u>	<u>Agriculture Sector</u>
Class A	165.00	150.00
Class B	155.00	140.00
Class C	145.00	130.00
Class D	135.00	120.00

b) The wages of workers and employees whose rates are less than the prescribed minimum wage as of Oct. 1, 1998 pursuant to Section 3 (a) hereof shall be adjusted on a staggered basis within a period of not more than five (5) years beginning 1999 to 2003 as indicated in Annexes A to I.

c) All future increases in the minimum wage mandated by the Board within the five-year transition period, shall be on top of all adjustments made pursuant to this Order.

Section 4. APPLICATION TO SUGAR INDUSTRY. The prescribed minimum wage rates upon full implementation for agriculture (sugar) and sugar mills, regardless of location, shall be P130.00 and P145.00 respectively. The wage of workers and employees whose rates as of Oct. 1, 1998 are less than the prescribed minimum wages for the sugar industry shall be adjusted on a staggered basis as indicated in Annexes A to I.

Section 5. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. The increase in minimum wage rates prescribed under Section 2 hereof, shall fully apply to all workers and employees in private educational institutions effective school year 1998-1999.

Section 6. EXEMPTIONS. a) Not covered from the provisions of this order are household or domestic helpers and persons in the personal service of another, including family drivers.

b) The following may be exempted from the applicability of this Order upon application with and as determined by the Board in accordance with the applicable rules and regulations:

- i) Retail/Service establishments regularly employing not more ten (10) workers;
- ii) Distressed establishments as defined in the NWPC Guideline No. 01, series of 1996; and
- iii) Private educational institutions receiving Tuition Fee Supplement (TFS) pursuant to Section 5 paragraph 1(a) of RA 6728.

c) All applications for exemption from compliance shall be filed within sixty (60) days from the date of the publication of the Rules implementing this Order.

d) Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance thereto shall be deferred pending its resolution.

e) 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 the effectivity of this Order.

Section 7. PRODUCTIVITY GAINS. Benefits derived from all productivity improvement programs agreed upon by both parties and implemented after the effectivity of this Order shall be credited as compliance hereof. Should the increase on account of productivity increases be less than the prescribed minimum wage, the employer shall pay the difference.

Section 8. EFFECTS ON EXISTING WAGE STRUCTURE. a) Where the application of the increases in the wage rates under Section 1 hereof, results in the distortions 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.

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

Section 9. PAYMENT BY SPECIAL ARRANGEMENTS. All workers paid by piecework, takay, pakyaw or task basis, shall receive not less than the prescribed wage rates per eight (8) hours of work per day, or a proportion thereof for working less than eight (8) hours.

Section 10. 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 wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 11. APPLICATION TO SPECIAL GROUP OF WORKERS. All recognized learnership and apprenticeship agreements shall be considered automatically modified insofar as their wage clauses are concerned to reflect the rates which shall in no case lower than seventy-five percent (75%) the prescribed minimum wage.

Section 12. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by the court, tribunal or other entity against any proceedings before the Board.

Section 13. SEPARABILITY CLAUSE. If any provision or part of this Order, or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of the Order or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 14. NON-DIMINUTION CLAUSE. Nothing in this Order shall be construed to reduce any existing wage rate, 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.

Section 15. PENAL PROVISION. 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 Order shall be punished by a fine of not less than Twenty-five Thousand Pesos (P25,000.00) nor more than One Hundred Thousand Pesos (P100,000.00) 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 courts. Provided that any person convicted under this Act shall not be entitled to the benefits provided for under the Probation Law.

Any entity who 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:

"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 imposed under this Act.

"If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty or 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 16. IMPLEMENTING RULES. The Board shall prepare the necessary rules and regulations to implement this Order, subject to the approval by the Secretary of Labor.

Section 17. EFFECTIVITY. This 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, March 10, 1998.

APPROVED:

With my dissent.
(SGD) CELSO C. REALES
Member

(SGD) EDGAR L. GODINEZ
Member

(SGD) HIDELITO S. PASCUAL
Member

(SGD) ALBERTO T. GUMARAO
ESCANDOR
Vice-Chairman

(SGD) JOSE ROMEO C.
Vice Chairman

(SGD) JESUS B. GADOR
Chairman

My Dissent:

I have always safeguarded the interest of labor, but voting procedures barred my desire for their cause. It is lamentable that with the Board composition now obtaining, the salary increase in the region will be, as is now, dictated by the management representatives. I set aside my previous statement not to sign the Order. Policy however demands I should sign but with my dissenting opinion.

The only regrettable issue where I pause my dissent is the manner by which concern on the plight of business and labor are not equally given sincere analysis. Briefly, the safety nets for the business sector have been given extensive and serious discussions, while labor which suffers most in times of economic depression was simply undermined. The Board consensus appeared much inclined to business than the lowly workers. I voted NO for the P100.00 increase. The labor sectors of the region should know about it.

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RULES IMPLEMENTING WAGE ORDER NO. ROVII-06

Pursuant to Section 5, Rule IV of the NWPC Rules of Procedure on Minimum Wage Fixing and Section 15 of Wage Order No. ROVII-06 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 “Rules Implementing Wage Order No. ROVII-06”;

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

- a) "ORDER" means Wage Order No. ROVII-06;
- b) "COMMISSION" refers to the National Wages and Productivity Commission;
- c) "BOARD" means the Regional Tripartite Wages and Productivity Board Regional Office No. 7;
- 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) "RETAIL ESTABLISHMENT" refers to one primarily 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;

- g) "SERVICE ESTABLISHMENT" refers to one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such;
- h) "COTTAGE/HANDICRAFT ESTABLISHMENTS" is one engaged in an economic endeavour 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 ₱1,500,000.00 pursuant to SMED Council Resolution No. 3, Series of 1995;
- i) "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;
- j) "PLANTATION AGRICULTURAL ENTERPRISES" is one engaged in agriculture with an area of more than twenty-four (24) hectares in a locality or which employs at least twenty (20) workers. Any other agricultural enterprises shall be considered as "NON-PLANTATION AGRICULTURAL ENTERPRISE";

- k) "PRODUCTIVITY IMPROVEMENT PROGRAMS" are defined process or processes, agreed upon by labor and management, that promote gainful employment, improve working conditions, maintain industrial peace and results in improved productivity;
- l) "PRODUCTIVITY INCREASES" are financial incentives or package of financial incentives given to the workers as a result of the adoption of productivity improvement programs;
- m) "PRESCRIBED MINIMUM WAGE" is the mandated wage level established and/or attained by an industry category within a specific geographic classification upon full implementation of this order;
- n) "DISTRESSED ESTABLISHMENT" refers to an establishment which meets the criteria enumerated in Section 3A of NWPC Guidelines On Exemption series of 1996 and Rule III, Section 5(b) hereof;
- o) "CAPITAL" means paid-up capital at the end of 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 partnership and single proprietorship;
- p) "FULL ACCOUNTING PERIOD" refers to a period of twelve (12) months or one (1) year of business operations;
- q) "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;
- r) "STOCK CORPORATION" refers to one organized for profit and issues shares of stock to its members;
- s) "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;
- t) "PARTNERSHIP" refers to an association of two (2) 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;
- u) "SINGLE PROPRIETORSHIP" refers to a business unit owned and controlled by only one (1) person;
- v) "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;
- w) "QUASI-BANKS" refer to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.

Section 3. Geographic Classification. For purposes of implementing the prescribed minimum wage pursuant to the order, the Region is hereby subdivided as follows:

Class A = Cities of Cebu, Mandaue, Lapulapu and Danao and the municipalities of Talisay, Minglanilla, Naga, San Fernando, Carcar, Consolacion, Liloan, Compostela and Cordova or (expanded METRO CEBU);

Class B = City of Toledo and the rest of the municipalities in the province of Cebu except the municipalities in the islands of Bantayan and Camotes;

Class C = Cities and municipalities in the provinces of Bohol and Negros Oriental; and

Class D = Municipalities in the province of Siquijor and municipalities in the islands of Bantayan and Camotes.

RULE II - WAGE INCREASE

Section 1. Coverage. a) The applicability of the new wage rates is based on the employee's workplace. Should he be relocated, the higher rate in either locality applies.

b) The wage increase prescribed in the order shall apply to all covered private sector 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, except household or domestic helpers and workers employed in the personal service of another, including family drivers;

Section 2. Effectivity and Amount of Increase. The daily minimum wage rates for all the workers and employees in the private sector shall be increased by Ten Pesos (P10.00) per day to be given in the following manner:

AMOUNT	EFFECTIVITY
P 5.00 per day	01 April 1998
5.00 per day	01 October 1998

Section 3. PRESCRIBED MINIMUM WAGE RATE. To effect a uniform wage rate for every geographic classification pursuant to Section 1 of the order and Rule I Section 3 hereof, the prescribed minimum wage rates upon full implementation of the order shall be as follows:

Area Classification	Non-Agricultural Sector	Agricultural Sector
Class A	165.00	150.00
Class B	155.00	140.00
Class C	145.00	130.00
Class D	135.00	120.00

Section 4. Daily Minimum Wage Rates. a) The wages of workers and employees whose rates are less than the prescribed minimum wage as of October 1, 1998 pursuant to Section 3(a) of the order and Rule II Section 3 hereof, shall be adjusted on a staggered basis within a period of not more than five (5) years beginning 1999 - 2003 in a manner prescribed hereunder:

more than P5M annual gross sales	109.00	114.00	119.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00
Less than P5M annual gross sales	102.00	107.00	112.00	117.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00
Non- Plantation	84.50	89.50	94.50	100.00	105.00	110.00	115.00	120.00	120.00	120.00	120.00	120.00	120.00

b) All future increases in the minimum wage mandated by the Board within the five-year period (1999 - 2003), shall be on top of all adjustments made pursuant to this Order.

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

Section 5. Application to Sugar Industry. a) The prescribed minimum wage rates upon full implementation for agriculture (sugar) and sugar mills, regardless of location shall be ₱130.00 and ₱145.00 respectively.

b) All workers and employees whose rates as of October 1, 1998 are less than the prescribed minimum wage rates pursuant to Section 4 of the Order and Rule II Section 5(a) hereof shall be adjusted on a staggered basis as indicated in Annexes C, F, G and H of the Order and under Tables III, VI, VII and VIII, Rule II Section 4(a) of this Rules.

Section 6. Application To Private Educational Institutions. The increase in minimum wage rates prescribed for all workers and employees in private educational institutions shall fully apply to all the workers and employees entitled pursuant to the order effective school year 1998 - 1999.

Section 7. Application to Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increases shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8. 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 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.

c) The wage rates of workers who are paid by special arrangements shall continue to be established in accordance with Article 101 of the Labor Code as amended and its implementing rules and regulations.

Section 9. Wages For Special Groups of Workers. a) Wages of apprentices, learners and handicapped shall in no case be less than seventy-five percent (75%) of the minimum wage rates prescribed in the order.

b) All recognized learnership and apprenticeship agreements entered into before April 1, 1998 shall be considered as automatically modified insofar as their wage clauses are concerned to reflect the increases prescribed under the order.

Section 10. 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 a day.

RULE III - EXEMPTIONS AND NON-COVERAGE

Section 1. Workers Not Covered By The Order. Household or domestic helpers and persons employed in the personal service of another including family drivers are not covered from the provisions of this Order.

Section 2. Establishments That May Be Exempted. a) 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 exempted from the applicability of this Order:

- i. Retail/Service establishment employing not more than ten (10) workers;
- ii. Distressed establishments as defined by NWPC Guidelines No. 01, series of 1996; and
- iii. Educational institutions receiving tuition fee subsidies pursuant to Section 5 paragraph 1(a) of Republic Act No. 6728 as amended.

Section 3. Application For Exemption. a) Within sixty (60) days from the date of publication of this Rules, an application for exemption shall be filed with the Board in three (3) typewritten copies by the owner/manager or duly authorized representative of an establishment in person or by registered mail. The date of mailing shall be deemed as the date of filing.

b) All applications for exemptions should 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 the 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. a) In addition to Section 3 hereof, and in accordance with NWPC Guidelines on Exemption, the following supporting documents shall be submitted with the application:

- 1) For retail/service establishments employing not more than ten (10) workers:
 - i. Affidavit from the employer stating the principal economic activity and the number of workers employed in the establishment
 - ii. Business permit for the current year from the appropriate government agency.
- 2) For distressed establishments:
 - i. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last two (2) full accounting periods preceding the effectivity of the order filed with and stamped "received" by the appropriate government agency.
 - ii. Audited interim quarterly financial statements (together with the Auditor's opinion and the notes thereto) for the period immediately preceding the effectivity of the Order.
- 3) For educational institutions:
 - i. Certification from Department of Education Culture and Sports (DECS) that applicant is receiving tuition fee supplement (TFS).

b) 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.

c) An applicant may be required to submit additional documents in support of its application, whenever the Board deem it necessary.

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 establishments, it must be:
1. engaged in retail sale of goods or services to end-users for personal or household use; and
 2. regularly employing not more than ten (10) workers regardless of status.
- b) In the case of distressed establishments:
1. For stock corporations/cooperatives, the deficit as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the order amounts to twenty percent (20%) or more of the paid-up capital for the same period or registers a capital deficiency i.e., negative stockholders' equity as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the order.
 2. For single proprietorships/partnerships and operating for at least two (2) years, when the net accumulated losses for the last two (2) full accounting periods and interim period, if any, preceding the effectivity of the order amounts to twenty percent (20%) or more of the total invested capital at the beginning of the period under review, or registers capital deficiency i.e., negative net worth as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the order.

For single proprietorships/partnerships operating for less than two (2) years when the net accumulated losses for the period immediately preceding the effectivity of the order amounts to twenty percent (20%) or more of the total invested capital at the beginning of the period under review.

3. For non-stock/non profit organizations operating for at least two (2) years, when the net accumulated losses for the last two (2) full accounting periods and interim period, if any, immediately preceding the effectivity of the order amounts to twenty percent (20%) or more of the fund balance/member's contribution at the beginning of the period under review or 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.

For non-stock/non-profit organizations operating for less than two (2) years when the net accumulated losses for the period immediately preceding the effectivity of the order amounts to twenty percent (20%) or more of the fund balance/members' contribution at the beginning of the period under review.

4. For banks and quasi-banks under receivership/liquidation when there is a certification from the Bangko Sentral ng Pilipinas that it is under receivership or liquidation as provided in Section 30 of RA7653 otherwise known as the New Central Bank Act.

Banks or quasi-banks under controllership/conservatorship may apply for exemption as a distressed establishment under Section 5.b. hereof.

c) In the case of private educational institutions, it must be receiving tuition fee supplement (TFS) from the Department of Education, Culture and Sports (DECS).

Section 6. Extent of Exemption. A full exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 5 hereof. However, a

partial exemption of fifty percent (50%) with respect to the amount or period of exemption shall be granted only in the case of distressed establishments as follows:

- a. When the deficit as of the last full accounting period and interim period, if any, immediately preceding the effectivity of the Order amounts to less than 20% of the paid-up capital of the same period in the case of corporations/cooperatives;
- b. When the net accumulated losses for the period under review amounts to at least 15% but less than 20% of the total invested capital at the beginning of the period under review for single proprietorships/partnerships;
- c. When the net accumulated losses for the period under review preceding the effectivity of the Order amounts to at least 15% but less than 20% of the fund balance/members' contribution at the beginning of the period under review in the case of non-stock non-profit organizations.

Section 7. Effect Of Filing An Application For Exemption. Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be notified. Action on any complaint for alleged non-compliance with the Order shall be deferred pending resolution of the said application.

Section 8. Effect of Disapproved Application. In the event that an application for exemption is not granted, the workers or employees of the applicant firm shall receive the appropriate compensation due them as provided for in the Order plus one percent (1%) interest per month retroactive 01 April, 1998.

Section 9. Motion For Reconsideration. a) 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 its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office.

b) No second motion for reconsideration shall be entertained in any case. The decision of the board shall be final and executory unless appealed to the Commission.

Section 10. Appeal. Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two (2) legible copies not later than ten (10) days from date of receipt of the decision. All appeals should be filed in a manner prescribed by the Commission based on any of the following grounds:

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

RULE IV - WAGE DISTORTION

Section 1. Wage Distortion. a) Where the application of the wage increase prescribed herein results in distortions in the wage structure within an establishment, the employer and the union shall negotiate to correct it. Any dispute arising thereat 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 ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

b) Where there are no collective agreements or recognized labor unions, the employer and workers shall endeavor to correct the wage distortion. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board (NCMB) and if it remains unresolved after ten (10) calendar days of conciliation, it shall be referred to the appropriate branch of the National

Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

RULE V - CREDITABLE PRODUCTIVITY INCREASES

Section 1. Creditable Productivity Gains. All benefits or financial rewards given to the workers as a result of the implementation of productivity improvement programs agreed upon by labor and management and implemented after the effectivity of the Order shall be credited as compliance thereof as contemplated in the supplemental rules issued by the Board dated August 6, 1997.

Section 2. Amount of Creditable Productivity Increases. a) Increases/Grants derived by the workers as a result of improved productivity shall be credited as compliance to the minimum, Provided, the amount shall not be lower than the increase prescribed in the order. Should the increases/grants be lower than the mandated amount, the employer shall pay the difference.

b) All increases/grants obtained pursuant thereto, shall be payable within the regular paying scheme established within the company.

RULE VI - SPECIAL PROVISIONS

Section 1. 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 and shall be subject of enforcement proceedings under Articles 128 and 129 of the Labor Code as amended.

Section 2. Non-Diminution 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 3. Penal Provision. a) 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 Order shall be punished by a fine of not less than Twenty-five Thousand Pesos (P25,000.00) nor more than One Hundred Thousand Pesos (P100,000.00) 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 courts. Provided that any person convicted under this Act shall not be entitled to the benefits provided for under the Probation Law.

b) Any entity who 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:

"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 imposed under this Act.

"If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty or 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 proceedings before the Board.

Section 5. 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.

Section 6. Reporting Requirement. Pursuant to Chapter III Section 11 of the Rules implementing Republic Act 6727, any person, company, corporation, partnership or any other entity engaged in business shall submit annually a verified itemized listing using NWPC Form No. 1 to the Regional Tripartite Wages and Productivity Board not later than January 31 1999 and on the same date every year thereafter.

Section 7. Effectivity. This Rules take effect on 01 April 1998.

Done in the City of Cebu, this 1st day of April 1998.

(SGD) CELSO C. REALES
Member

(SGD) HIDELITO S. PASCUAL
Member

(SGD) ALBERTO T. GUMARAO
Member

(SGD) EDGAR L. GODINEZ
Member

(SGD) JOSE ROMEO C. ESCANDOR
Member

(SGD) JESUS B. GADOR
Acting Chairman

Approved this 23rd day of April 1998

(SGD) HON. CRESECIANO B. TRAJANO
Secretary, Department of Labor and Employment
Chairman, National Wages and Productivity Commission

ANNEX "A"

Suggested Formula In Determining The Equivalent Monthly Wage Rates

- a) For those who are required to work everyday including Sundays or rest days, special days and regular holidays;

$$\frac{\text{Applicable Daily Rate} \times 391.50}{12} = \text{EMR}$$

where 391.50 days/year

302.0	- ordinary days
18.0	- 9 regular holidays x 200%
2.6	- 1 regular holiday falling on last Sunday of August X 200% + (30% of 200%)
66.3	- 51 rest days x 130%
<u>2.6</u>	- 2 special days x 130%
391.5	- Total equivalent number of days in a year

- b) For those who do not work but considered paid on rest days, special days and regular holidays;

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

where 365 days/year

302	- ordinary days
51	- rest days
10	- regular holidays
<u>2</u>	- special days
365	- Total equivalent number of days in a year

- c) For those who do not work and are not considered paid on Sundays or rest days;

$$\frac{\text{Applicable Daily Rate} \times 314.6}{12} = \text{EMR}$$

where 314 days/year

302	- ordinary days
10	- regular holidays
<u>2.6</u>	- special days (If worked) X 130%
314.6	- Total equivalent number of days in a year

- d) For those who do not work and are not considered paid on Saturdays and Sundays and rest days;

$$\frac{\text{Applicable Daily Rate} \times 262.6}{12} = \text{EMR}$$

where 262 days/year

250	- ordinary days
10	- rest days
<u>2.6</u>	- regular holidays
262.6	- Total equivalent number of days in a year