

Republic of the Philippines  
DEPARTMENT OF LABOR AND EMPLOYMENT  
National Wages and Productivity Commission  
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD  
Regional Board No. VIII  
Tacloban City

WAGE ORDER NO. RB VIII-21

PRESCRIBING NEW MINIMUM WAGE RATES FOR EASTERN VISAYAS

**WHEREAS**, the Regional Tripartite Wages and Productivity Board – Region VIII (RTWPB VIII) is mandated under Republic Act No. 6727 (The Wage Rationalization Act of 1989) to determine and fix minimum wage rates applicable in Region VIII, the provinces or industries therein and to issue the corresponding wage orders, periodically assess wage rates and conduct continuing studies in the determination of the minimum wage applicable in the region or industry;

**WHEREAS**, in consonance with the aforementioned mandate, the RTWPB VIII continuously adopts the Two-Tiered Wage System (TTWS) in the exercise of its minimum wage function recognizing the need to improve workers' productivity and income, enhance enterprise competitiveness, generate jobs and strengthen the link between pay and productivity;

**WHEREAS**, in the exercise of its wage-fixing function, the RTWPB VIII conducted sectoral wage consultations in Ormoc City on April 26, 2019; Maasin City, Southern Leyte on May 10, 2019; Naval, Biliran on June 17, 2019; Catarman, Northern Samar on July 2, 2019; and Borongan City, Eastern Samar on July 5, 2019;

**WHEREAS**, the Board did not receive any verified petition for the increase of the minimum wage;

**WHEREAS**, a regional public hearing was conducted "motu proprio" in Tacloban City on July 17, 2019 to gather inputs from the public at large on wage concerns that will guide the Board in its review of the current minimum wage rates in the region. The notice of the public hearing was published on the June 24-26, 2019 issue of "Sunday Punch", a newspaper of general circulation in the region;

**WHEREAS**, the results of the consultations and public hearing as well as the review of socio-economic indicators revealed that there is a need to increase the minimum wage in Eastern Visayas without impairing the viability of businesses in the region;

**NOW THEREFORE**, by virtue of the power and authority vested under R.A. No. 6727, the RTWPB VIII hereby issues this Wage Order;

**Section 1. Wage Increase.**

Upon effectivity of this Wage Order, all covered workers in the private sector in Region VIII shall receive a basic wage increase of P20.00 per day to be given in two (2) tranches as follows:

*First Tranche:* P10.00 per day for the first six (6) months from effectivity.

*Second Tranche:* Additional P10.00 per day starting on the 7<sup>th</sup> month from effectivity.

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**Section 2. NEW MINIMUM WAGE RATES.** Upon the effectivity of this Wage Order No. RB VIII-21 the new minimum wages in the region shall be as follows:

Sector/Industry	Minimum Wage Rates under WO No. RB VIII-20 (PhP)	First Tranche Increase for the first six (6) months from effectivity (PhP)	Applicable Minimum Wage for the first six (6) months from effectivity (PhP)	Second Tranche Increase starting on the 7 <sup>th</sup> month from effectivity (PhP)	Applicable Minimum Wage starting on the 7 <sup>th</sup> month from effectivity (PhP)
<b>NON-AGRICULTURE</b>	305.00	10.00	315.00	10.00	325.00
<b>RETAIL/SERVICE</b>					
• Employing 11 workers and above	305.00	10.00	315.00	10.00	325.00
• Employing 10 workers and below	275.00	10.00	285.00	10.00	295.00
<b>COTTAGE/HANDICRAFT</b>	275.00	10.00	285.00	10.00	295.00
<b>AGRICULTURE</b>	275.00	10.00	285.00	10.00	295.00

**SECTION 3. BASIS OF WAGE INCREASE.** The wage increase prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

**SECTION 4. COVERAGE.** The wage rates per worker prescribed under this Order shall apply to all minimum wage earners in the private sector in the Region, regardless of their position, designation or status of employment and irrespective of the method by which they are paid.

Not covered are kasambahay/domestic workers, and workers of duly registered Barangay Micro Business Enterprises (BMBEs) with Certificate of Authority pursuant to Republic Act No. 9178, as amended.

**SECTION 5. EXEMPTION.** No exemption from compliance under this Order shall be allowed. However, the Board may accept applications for exemption for establishments adversely affected by calamities such as natural and/or human-included disasters, pursuant to NWPC Guidelines No.02, Series of 2007 as amended by NWPC Resolution No. 01, Series of 2014.

**SECTION 6. WORKERS PAID BY RESULTS.** All workers paid by result, including those who are paid on piecework, takay, pakyaw or task basis, shall be entitled to receive the prescribed new minimum wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours a day.

**SECTION 7. WAGES OF SPECIAL GROUPS OF WORKERS.** The minimum wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed herein.

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 prescribed minimum wage rates.

All qualified handicapped workers shall receive the full amount of the new wage rates prescribed herein pursuant to republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

**SECTION 8. 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 2018-2019 shall be considered as compliance with the wage increase prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be complied with starting school year 2019-2020.

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Private educational institutions which have not increased their tuition fees for school year 2018-2019 may defer compliance with the minimum wage prescribed herein until the beginning of school year 2019-2020.

In any case, all private educational institutions shall implement the minimum wage prescribed herein starting school year 2019-2020.

**SECTION 9. APPLICATION TO CONTRACTORS.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase under this Order 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 his principal or client.

**SECTION 10. PRODUCTIVITY-BASED WAGES.** To sustain rising levels of wages and enhance competitiveness, labor and management as partners are encouraged to adopt productivity improvement schemes that will improve the quality of life of workers and in turn enable them to produce more and earn more, such as time and motion studies, good housekeeping, quality circles, labor and management cooperation as well as implement gain-sharing and other performance incentive programs.

In line with the two-tiered wage system wherein the 1<sup>st</sup> tier is the mandatory wage adjustment prescribed in this Wage Order, the Board shall issue an advisory on the 2<sup>nd</sup> tier or the performance-based pay which shall serve as guidelines for private establishments on the range of productivity bonuses and incentives that an enterprise or industry may provide based on agreement between workers and management.

**SECTION 11. APEAL TO THE COMMISSION.** Any party aggrieved by this Wage Order may file a verified appeal with the National Wages and Productivity Commission (NWPC) through the Board within ten (10) calendar days from the publication of this Order

**SECTION 12. EFFECT OF FILING OF APPEAL.** The filing of the appeal does not 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 the payment of the corresponding increase to employees affected by the Order in the event such Order is affirmed.

**SECTION 13. EFFECTS ON EXISTING WAGE STRUCTURE.** Where the application of the new minimum wage rates results in the distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code as amended.

**SECTION 14. 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) having jurisdiction over the workplace and shall be subjected to the mandatory thirty days (30) conciliation and mediation process under Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

**SECTION 15. 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 16. PENAL PROVISION.** Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage increase in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

**SECTION 17. 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 in accordance with pertinent provisions of the labor Code as amended.

**SECTION 18. FREEDOM TO BARGAIN.** This Order shall not be construed to prevent workers in particular firms, enterprises or industries from bargaining for higher wages with their respective employers.

**SECTION 19. 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, 2020 and every year thereafter in accordance with the form prescribed by the National Wages and Productivity Commission.

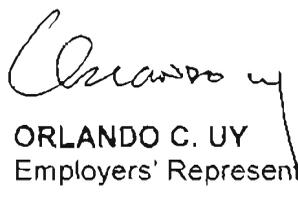
**SECTION 20. REPEALING CLAUSE.** All orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

**SECTION 21. SEPARABILITY CLAUSE.** If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts thereof shall remain valid.

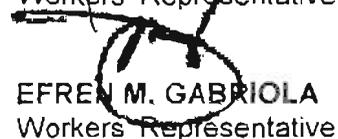
**SECTION 22. IMPLEMENTING RULES.** The Board shall submit to the Commission the necessary Rules and Regulations to implement this Order subject to the approval of the Secretary of Labor and Employment not later than ten (10) days from the publication of the Wage Order.

**SECTION 23. EFFECTIVITY.** This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Region.

Approved this 22nd day of July 2019 in Tacloban City.

  
**ORLANDO C. UY**  
Employers' Representative

  
**MIGUEL T. TEZON**  
Workers' Representative

  
**EFREN M. GABRIOLA**  
Workers' Representative

  
**MEYLENE C. ROSALES**  
Vice-Chairperson  
OIC-Regional Director, NEDA VIII

  
**CELERINA T. BATO**  
Vice-Chairperson  
OIC-Regional Director, DTI VIII

  
**YAHYA A. GENTI**  
Chairman  
Regional Director, DOLE VIII

Republic of the Philippines  
DEPARTMENT OF LABOR AND EMPLOYMENT  
**National Wages and Productivity Commission**  
**Regional Tripartite Wage and Productivity Board**  
Regional Board No. VIII

**Rules Implementing Wage Order No. RB VIII-21**

Pursuant to Section 6, Rule IV of the National Wage and Productivity Commission Guidelines No. 01-2007, otherwise known as the Amended Rules of on Minimum Wage Fixing and Section 22 of Wage Order RB VIII-21, the following rules are hereby issued for the guidance and compliance of all concerned.

**Rule I**  
**General Provisions**

**Section 1. Title.** This Rules shall be known as the "Rules Implementing Wage Order No. RB VIII-21."

**Section 2. Definition of Terms.** As used in this Rules.

- a.) "**Order**" refers to Wage Order No. RB VIII-21;
- b.) "**Board**" refers to the Regional Tripartite Wages and Productivity Board of Region VIII;
- c.) "**Basic Wage**" refers to 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 allowance, profit sharing payments, premium payments, 13<sup>th</sup> month pay and other monetary benefits which are not considered as part of or integrated into the regular salary of the worker on the date the Order became effective.
- d.) "**Commission**" refers to the National Wages and Productivity Commission;
- e.) "**Department**" refers to the Department of Labor and Employment;
- f.) "**Region VIII**" covers the Provinces of Leyte, Southern Leyte, Biliran, Samar, Eastern Samar, Northern Samar and the Cities of Tacloban, Ormoc, Maasin, Catbalogan, Baybay, Borongan and Calbayog;
- g.) "**Minimum Wage Rates**" refers to the lowest wage rates that an employer can pay his workers, as fixed by the Regional Board;
- h.) "**Wage Distortion**" refers to the situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions in such wage structure based on skills, length of service, or other bases of differentiation;
- i.) "**Agriculture**" refers to the farming in all branches and among others, includes the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activities performed by a farmer or on a farm as an incident to or in conjunction with such

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farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, pineapple, aquatic or other farm products;

- j.) **“Non-Agriculture Enterprise”** refers to all other activities not falling under “Agriculture”.
- k.) **“Retail Establishment”** refers to one principally engaged in the sale of goods to end-users for personal and household use. A retail establishment that regularly engages in wholesale activities loses its retail character;
- l.) **“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;
- m.) **“Cottage/Handicraft Establishment”** refers to 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 and/or whose capitalization does not exceed PhP1,500,000.00 regardless of previous registration with the defunct NACIDA;
- n.) **“Special days”** are Ninoy Aquino Day, All Saints Day, Feast of Immaculate Conception of Mary and the last day of the year according to the 2019 Handbook on Workers’ Statutory Monetary Benefits and those that may be declared as a national or local special day by law, order or proclamation;
- o.) **“Productivity Based Wages”** refers to additional income given to workers as incentives derived from successful implementation of productivity programs through any gain-sharing scheme designed by the employer or by virtue of an agreement with the workers;
- p.) **“Two-Tiered Wage System”** refers to a pay system consisting of 1. Minimum Wage; 2. Incentive Pay based on productivity improvement and gainsharing;
- q.) **“Advisory”** refers to the Wage Advisory issued by the Board in accordance with the Two-Tiered Wage System.
- r.) **“State of Calamity”** refers to a condition involving mass casualty and/or major damages to property, disruption of means of livelihood, roads and normal way of life of people in the affected areas as a result of the occurrence of natural or human-induced hazard.
- s.) **“Hazard”** a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood or services, social and economic disruption or environmental damage: any potential threat to public safety or public health; any phenomenon which has the potential to cause disruption or damage to people, their property, their services or their environment, i.e., their communities. The four classes of hazards are natural, technological, biological and societal hazards.
- t.) **“Disaster”** a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceed the ability of the affected community or society to cope using its own resources; an actual threat to public health and safety where the local government and the emergency services are unable to meet the immediate needs of the community; an event in which the local emergency management measures are insufficient to cope with a hazard, whether due to a lack of time, capacity of resources, resulting in unacceptable levels of damage or number of casualties.






**Rule II**  
**New Minimum Wage Rates**

**Section 1. Wage Increase.** Upon effectivity of this Wage Order, all covered workers in the private section in Region VIII shall receive a basic wage increase of ₱20.00 per day to be given in two (2) tranches as follows:

*First Tranche:* ₱10.00 per day for the first six (6) months from effectivity;  
*Second Tranche:* Additional ₱10.00 per day starting on the 7<sup>th</sup> month from effectivity.”

**Section 2. New Minimum Wage Rates.** Upon the effectivity of Wage Order No. RB VIII-21, the new daily minimum wages of covered workers in the private sector in Region VIII shall be as follows:

Sector/Industry	Minimum Wage Rates under WO No. RB VIII-20	First Tranche (Effective August 18, 2019)		Second Tranche (Effective February 18, 2020)	
		Wage Increase	New Minimum Wage	Wage Increase	New Minimum Wage
<b>NON-AGRICULTURE</b>	P 305.00	P 10.00	<b>P 315.00</b>	P 10.00	<b>P 325.00</b>
<b>RETAIL/SERVICE</b>					
• Employing 11 workers and above	P 305.00	P 10.00	<b>P 315.00</b>	P 10.00	<b>P 325.00</b>
• Employing 10 workers and below	P 275.00	P 10.00	<b>P 285.00</b>	P 10.00	<b>P 295.00</b>
<b>COTTAGE/ HANDICRAFT</b>	P 275.00	P 10.00	<b>P 285.00</b>	P 10.00	<b>P 295.00</b>
<b>AGRICULTURE</b>	P 275.00	P 10.00	<b>P 285.00</b>	P 10.00	<b>P 295.00</b>

**Section 3. Basis of Minimum Wage Rates.** 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. Coverage.** The wage rates prescribed in this Order shall apply to all minimum wage earners in the private sector in Region VIII, regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid, except for the following:

- a.) Kasambahay or domestic workers and persons in the personal service of another pursuant to Article 143 of the Labor Code of the Philippines as amended by Republic Act No. 7655 otherwise known as An Act Increasing the Minimum Wage of Househelpers;
- b.) Workers in duly registered Barangay Micro Business Enterprises pursuant to Republic Act No. 9178 and with Certificates of Authority pursuant to Sec. 5 (b) of Republic Act 10644.

**Section 5. 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 2019-2020 shall be considered as compliance with the wage increase

prescribed herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting school year 2020-2021.

Private educational institutions that have not increased their tuition fees for school year 2019-2020 may defer compliance with the minimum wage prescribed herein until the beginning of school year 2020-2021.

In any case, all private educational institutions shall implement the minimum wage prescribed herein starting School year 2020-2021.

**Section 6. Application to Contractors.** In the case of contractors for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates under this Order 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 minimum wage rates, the construction/service contractors shall be jointly and severally liable with his principal or client.

**Section 7. Workers Paid by Result.** All workers paid by results, including those who are paid on piecework, *takay*, *pakyaw* or task basis, shall be entitled to receive not less than the prescribed minimum wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours a day.

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

- a.  $\frac{(\text{New AMW}-\text{Previous AMW}^*)}{\text{Previous AMW}^*} \times 100 = \% \text{ increase}$
- b. Existing rate/piece x % increase = Increase in rate/piece;
- c. Existing rate/piece + Increase in rate/piece = Adjusted rate/piece

\*Where AMW is the applicable minimum wage rate.

The wages 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 8. Wages of Special Groups of Workers.** The daily minimum wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed herein.

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 minimum wage rates prescribed herein.

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

**Section 9. Suggested Formula in Determining the Equivalent Monthly Minimum Wage Rates.** Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining equivalent monthly rates:

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

Equivalent  
 Monthly Rates (EMR) =  $\frac{\text{Applicable Daily Rate (ADR)} \times 393.80 \text{ days}}{12 \text{ months}}$

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Where 393.50 days:

297	days - Ordinary working days
24	days - 12 regular holidays X 200%
67.60	days - 52 rest days X 130%
<u>5.20</u>	days - 4* special days X 130%
393.80	days Total equivalent number of days

*\*The number of special days may be modified by law, order, or proclamation declaring a national or local special day based on the 2019 Handbook of Workers Statutory Monetary Benefits.*

- b. For those who do not work but are considered paid on rest days, special days and regular holidays:

$$EMR = \frac{ADR \times 365 \text{ days}}{12 \text{ months}}$$

Where 365 days:

297	days - Ordinary working days
52	days - Sundays/Rest Days
12	days - Regular Holidays
<u>4*</u>	days - Special Days
365	days - Total equivalents number of days

*\*The number of special days may be modified by law, order, or proclamation declaring a national or local special day based on the 2019 Handbook of Workers Statutory Monetary Benefits.*

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

$$EMR = \frac{ADR \times 313 \text{ days}}{12 \text{ months}}$$

Where 313 days:

297	days - Ordinary working days
12	days - Regular Holidays
<u>4*</u>	days - Special days
313	days - Total equivalent number of days

*\*The number of special days may be modified by law, order, or proclamation declaring a national or local special day based on the 2019 Handbook of Workers Statutory Monetary Benefits.*

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

$$EMR = \frac{ADR \times 261 \text{ days}}{12 \text{ months}}$$

Where 261 days:

245	days - Ordinary working days
12	days - Regular holidays
<u>4*</u>	days - Special days
261	days - Total equivalent number of days

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*\*The number of special days may be modified by law, order, or proclamation declaring a national or local special day based on the 2019 Handbook of Workers Statutory Monetary Benefits.*

**Section 10. Mobile and Branch Workers.** The minimum wage rates of workers who by nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

The minimum wage rates of workers working in branches or agencies of establishments within the Region shall be those applicable in the place where they are stationed.

**Section 11. Transfer of Personnel.** The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to other regions with higher wages shall be entitled to the minimum wage rates applicable therein.

**Rule III.  
Application for Exemption**

**Section 1. Exemption.** No exemption from compliance under this Wage Order shall be allowed. However, in case of calamity and human-induced disasters, the Board may accept applications for exemption filed by establishments adversely affected by calamities and natural and/ or human-induced disasters.

**Section 2. Criteria of Exemption.** Establishments adversely affected by natural calamities and human-induced disasters may apply for exemption. The following criteria<sup>1</sup> will be used to determine whether the applicant-establishment is qualified for exemption:

1. The establishment must be located in an area declared by a competent authority as under a state of calamity.
2. The calamity must have occurred within six (6) months prior to the effectivity of the Wage Order. However, if based on the assessment by a competent authority, the damage to properties is at least 50% and the period of recovery will exceed one (1) year, the 6-month period may be extended to one (1) year.<sup>2</sup>
3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as of the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnerships and single proprietorships and fund balance/members' contribution in the case of non-stock non-profit organizations. Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.
4. Where necessary, the Board or its duly-authorized representative shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

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**Section 3. Documents Required.** The following supporting documents shall be submitted in support of the application for exemption:

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

<sup>1</sup> Section 3(D), NWPC Guidelines No. 02 Series of 2007

<sup>2</sup> Section 3, Resolution No. 01 Series of 2014, Resolution Amending NWPC Guidelines No. 02, Series of 2007

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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.<sup>3</sup>

For Establishments Adversely Affected by Natural Calamities, the following<sup>4</sup> shall be submitted:

1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
  - a. Date and type of calamity.
  - b. Amount of losses/damage suffered as a direct result of the calamity
  - c. List of properties damaged/lost together with estimated valuation
  - d. For properties that are not insured, a statement that the same are not covered by insurance.
2. Copies of insurance policy contracts covering the properties damaged, if any.
3. Adjuster's report for insured properties.
4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency. The Board may require the submission of other pertinent documents to support the application for exemption.
5. In case of severe damage to properties caused by the calamity, a Certification from the Barangay and pictures of the damaged property/ies may be submitted in lieu of the audited financial statements.

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

**Section 4. Extent and Duration of Exemption.**<sup>5</sup> Full Exemption of one (1) year from effectivity of the Order shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3A of NWPC Guidelines No. 02 Series of 2007 and Section 3 of Resolution No. 01 Series of 2014(Resolution Amending NWPC Guidelines No. 02, Series of 2007).

**Section 5. Action on Application for Exemption.**<sup>6</sup> Upon receipt of an application with complete documents, the Board shall take the following steps:

- a. Notify the DOLE Regional Office having jurisdiction over the workplace of the pendency of the application requesting that action on any complaint for non-compliance with the Order be deferred pending resolution of the application by the Board.
- b. Request the DOLE Regional Office to conduct ocular inspection, if necessary, of establishments applying for exemption to verify number of workers, nature of business and other relevant information.
- c. Act and decide on the application for exemption with complete documents, as much as practicable, within 45 days from the date of filing. In case of contested application, the Board may conduct conciliation or call hearings thereon.
- d. Transmit the decision of the Board to the applicant establishment, the workers or president of the union, if any, and the Commission, for their information; and the DOLE Regional Office concerned, for their implementation/enforcement. The Board may create a Special Committee with one representative from each sector to expedite processing of

<sup>3</sup> Section 4, NWPC Guidelines No. 02 Series of 2007

<sup>4</sup> Section 4 (D), NWPC Guidelines No. 02 Series of 2007

<sup>5</sup> Section 5 (A), NWPC Guidelines No. 02 Series of 2007

<sup>6</sup> Section 7, NWPC Guidelines No. 02 Series of 2007

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applications for exemption.

**Section 6. Procedures On Exemption<sup>7</sup>**

**A. Filing of Application**

1. An application, in three (3) legible copies may be filed with the appropriate Board 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. Applications for exemption filed with the DOLE regional, district or provincial offices are considered filed with the appropriate Board in the region.

2. Applications for all categories shall be filed not later than 75 days from publication of the approved implementing rules of the Order, provided that all the required documents in support of the application must be filed within the said 75-day filing period and that no further extension of filing and submission of required documents shall be allowed.

3. The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 3 of Rule III of this implementing rules.

**B. Filing of Opposition**

Any worker or, if unionized, the union in the applicant establishment, may file with the appropriate Board within fifteen (15) days from receipt of the notice of the filing of the application, an opposition to the application for exemption stating the reasons why the same should not be approved, furnishing the applicant a copy thereof. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

**C. 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 its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.

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.

**D. Filing of Appeal to the Commission**

1. Appeal - Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two (2) legible copies, not later than ten (10) days from date of receipt of the decision.

The appeal, with proof of service to the other party, shall be accompanied with a memorandum of appeal which shall state the date appellant received the decision, the grounds relied upon and the arguments in support thereof.

The appeal shall not be deemed perfected if it is filed with any office or entity other than the Board.

2. Grounds for Appeal - An appeal may be filed on the following grounds:

- a. Non-conformity with the prescribed guidelines and/or procedures on

<sup>7</sup> Section 10, NWPC Guidelines No. 02 Series of 2007

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- exemption;
- b. Prima facie evidence of grave abuse of discretion on the part of the Board; or
- c. Questions of law.

3. 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.

4. Transmittal of records - Within five (5) days upon receipt of the reply or opposition of the appellee or after the expiration of the 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.

**Section 7. Quorum And Votes Required<sup>8</sup>.** Four (4) members of the Commission or Board shall constitute a quorum to decide on the applications for or on appeals on exemption, provided each sector is represented. The Commission or Board may dispense with the latter proviso if the two (2) representatives of any sector fail to attend two (2) consecutive scheduled meetings with proper notice. The affirmative vote of the majority of the members constituting a quorum shall be necessary to carry a decision.

**Section 8. Effect Of Disapproved Application For Exemption<sup>9</sup>.** 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.

**Rule IV  
Special Provisions**

**Section 1. Effects on Existing Wage Structure.** Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortion through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time such dispute was referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide 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. Non-Diminution of Benefits.** Nothing in the Order and in this Rules shall be construed to reduce any existing wage rates, allowances and other 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. Productivity-Based Wage.** Businesses enterprises are encouraged to adopt productivity improvement and gain-sharing programs to attain higher level of productivity and to enhance competitiveness, preserve and generate gainful employment, and to augment the income of workers.

<sup>8</sup> Section 11, NWPC Guidelines No. 02 Series of 2007  
<sup>9</sup> Section 12, NWPC Guidelines No. 02 Series of 2007

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Pursuant NPWC Guidelines No. 2, series of 2012 on the implementation of the Two-Tiered Wage System (TTWS), private establishments are encouraged to formulate, adopt and implement productivity programs and performance and productivity-based incentive schemes as agreed between workers and the management.

**Section 4. Advisory on Performance-Based Pay.** In line with the Two Tiered Wage System, the Board shall issue an advisory on the second tier or the performance-based pay which shall serve as guidelines for private establishments on the range of productivity bonuses and incentives that an enterprise or industry may provide based on agreement between workers and management.

**Section 5. Complaints for Non-Compliance.** Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) having jurisdiction over the workplace and shall be subjected to the mandatory thirty days (30) conciliation and mediation process under Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

**Section 6. Penal Provision.** Pursuant to Section 12 of RA No. 6727, as amended by RA No. 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in the Order shall be punished by fine of not less than Twenty-Five Thousand Pesos (PhP25,000.00) nor more than One Hundred Thousand (PhP100,000.00) 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 Court. Provided, that any person convicted under the Order 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 RA No. 8188.

If the violation is committed by a corporation, trust or firm, partnership, association or any 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. Appeal to the Commission.** Any party aggrieved by Wage Order No. RB VIII-21 may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) days from date of filing. An 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 8. Grounds for Appeal.** An appeal may be filed on the following grounds:

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

**Section 9. Effect of Filing 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 the payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

**Section 10. 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 11. 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.

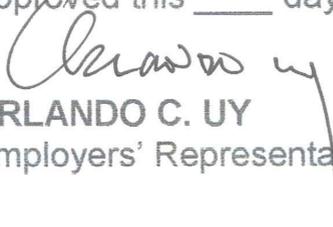
**Section 12. Reporting Requirement.** Any company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later not than January 31, 2020 and every year thereafter in accordance with the form prescribed by the Commission.

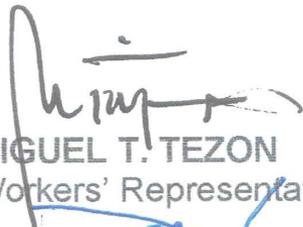
**Section 13. Repealing Clause.** All orders, issuances, rules and regulation on wages, or parts thereof inconsistent with the provisions of the Order and this Rules are hereby repealed, amended or modified accordingly.

**Section 14. Separability Clause.** If any provision or part of the Order and this Rules, 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.

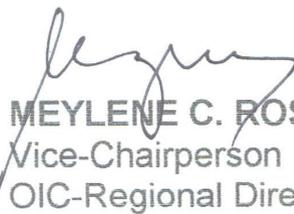
**Section 15. Effectivity.** This Rules shall take effect upon effectivity of the Order.

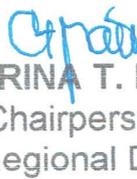
Approved this 14<sup>th</sup> day of August 2019 in Tacloban City.

  
ORLANDO C. UY  
Employers' Representative

  
MIGUEL T. TEZON  
Workers' Representative

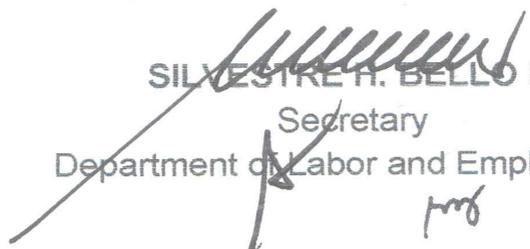
  
EFREN M. GABRIOLA  
Workers' Representative

  
MEYLENE C. ROSALES  
Vice-Chairperson  
OIC-Regional Director, NEDA VIII

  
CELERINA T. BATO  
Vice-Chairperson  
OIC-Regional Director, DTI VIII

  
YAHYA A. GENTI  
Chairman  
Regional Director, DOLE VIII

APPROVED: This 23<sup>rd</sup> day of September 2019.

  
SILVESTRE R. BELLO III  
Secretary  
Department of Labor and Employment