

Republic of the Philippines
Department of Labor and Employment
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
Manila

**NWPC GUIDELINES NO. 01
Series of 2007**

**AMENDED RULES OF PROCEDURE ON
MINIMUM WAGE FIXING**

Pursuant to Article 121 (c) of the Labor Code as amended by Section 3 of R. A. 6727, the National Wages and Productivity Commission hereby adopts and promulgates the following amended rules of procedure governing the proceedings in the Commission and the Regional Tripartite Wages and Productivity Boards in the fixing of minimum wage rates by region, province or industry.

**RULE I
GENERAL PROVISIONS**

Section 1. **Title.** This Rules shall be known as the Amended Rules of Procedure on Minimum Wage Fixing.

Section 2. **Construction.** This Rules shall be liberally construed to carry out the objectives of R. A. 6727.

Section 3. **Scope.** This Rules shall govern proceedings in the National Wages and Productivity Commission and the Regional Tripartite Wages and Productivity Boards in the fixing of minimum wage rates.

Section 4. **Definition of Terms.** As used in this Rules:

- a. "Act" means Republic Act No. 6727;
- b. "Board" means the Regional Tripartite Wages and Productivity Board;
- c. "Commission" means the National Wages and Productivity Commission;
- d. "Chairman" means Chairman of the Commission;
- e. "Member" refers to the members of the Commission or Board, including its Chairman;
- f. "Regional Chairman" means the Chairman of the Board;
- g. "Party" means any legitimate organization of workers or employers with substantial interest in the region, province or industry therein as determined by the Board and who stands to be directly affected by the Commission/Board proceedings, orders, decisions or resolutions;

- h. "Industry" refers to a trade, business or sector thereof or group of businesses in similar or allied activities in which individuals are gainfully employed;
- i. "Locality" refers to a geographical area smaller than a province and includes industrial estates/export processing zones;
- j. "Region" refers to a geographical area composed of a group of provinces and/or cities as defined under Presidential Decree No. 1, as amended, including those that may be subsequently established by law;
- k. "Regional Minimum Wage Rates" refer to the lowest wage rates that an employer can pay his workers, as fixed by the Board which shall not be lower than the applicable statutory minimum wage rates;
- l. "Statutory Minimum Wages" refer to the lowest wages as provided by law;
- m. "Wage Distortion" shall mean a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation;
- n. "Wage Order" refers to the Order promulgated by the Board pursuant to its wage fixing authority.

RULE II MINIMUM WAGE FIXING

Section 1. **Conduct of Wage and Productivity Studies.** The Board shall, subject to guidelines issued by the Commission, conduct continuing studies of wage rates, productivity and other conditions in the region, provinces or industries therein. The Board shall investigate and study all pertinent facts, and based on standards and criteria prescribed under Section 2 of this Rule, shall determine whether a wage order should be issued.

Section 2. **Standards/Criteria for Minimum Wage Fixing.** The minimum wage rates to be established by the Board shall be as nearly adequate as is economically feasible to maintain the minimum standards of living necessary for the health, efficiency and general well-being of the workers within the framework of national economic and social development goals. In the determination of regional minimum wages, the Board shall, among other relevant factors, consider the following:

- (a) Needs of workers and their families
 - 1) Demand for living wages
 - 2) Wage adjustment vis-à-vis the consumer price index
 - 3) Cost of living and changes therein
 - 4) Needs of workers and their families
 - 5) Improvements in standards of living

(b) Capacity to pay

- 1) Fair return on capital invested and capacity to pay of employers
- 2) Productivity

(c) Comparable wages and incomes

- 1) Prevailing wage levels

(d) Requirements of economic and social development

- 1) Need to induce industries to invest in the countryside
- 2) Effects on employment generation and family income
- 3) Equitable distribution of income and wealth along the imperatives of economic and social development.

Section 3. **Procedures in Minimum Wage Fixing**

(a) Motu Proprio by the Board

Whenever conditions in the region, province or industry so warrant, the Board may, motu proprio or as directed by the Commission, initiate action or inquiry to determine whether a wage order should be issued. The Board shall conduct public hearings in the manner prescribed under this Rule and Rule III. The Board may also conduct consultations with concerned sectors/industries.

(b) By Virtue of a Petition Filed.

1) Form and Content of Petition

Any party may file a verified petition for wage increase with the appropriate Board in three (3) printed legible copies which shall contain the following:

- (a) name/s, and address/es of petitioner/s and signature/s of authorized official/s;
- (b) grounds relied upon to justify the increase being sought;
- (c) amount of wage increase being sought;
- (d) area and/or industry covered.

2. Board Action

The Board, shall within fifteen (15) calendar days from receipt of a petition, evaluate the same. If the petition conforms with the requirements prescribed in the preceding sub-section and other requirements under this Rules, the Board shall conduct public hearings in the manner prescribed under this Rule and Rule III to determine whether a wage order should be issued.

3. Publication of Notice of Petition/Public Hearing.

A notice of the petition and/or public hearing shall be published in a newspaper of general circulation in the region and/or posted in public places as determined by the Board. The notice shall include the name/s and address/es of the petitioner/s, the subject of the petition and the date/s, place/s and time of the hearings. The publication or posting shall be made at least fifteen (15) days before the date of initial hearing and shall be in accordance with the prescribed form attached as Annex "A".

4. Opposition.

Any party may file his opposition to the petition on or before the initial hearing, copy furnished the petitioner/s. The opposition shall be filed with the appropriate Board in three (3) printed legible copies which shall contain the following:

- (a) name/s and address/es of the oppositor/s and signature/s of authorized official/s;
- (b) reasons or grounds for the opposition; and
- (c) relief sought.

5. Consolidation of Petitions.

If there is more than one petition filed, the Board may, motu proprio or on motion of any party, consolidate these for purposes of conducting joint hearings or proceedings to expedite resolution of petitions. Petitions received after publication of an earlier petition need not go through the publication/posting requirement.

6. Assistance of Other Government and Private Organizations.

The Board may enlist the assistance and cooperation of any government agency or private person or organization to furnish information in aid of its wage function.

RULE III CONDUCT OF HEARINGS/CONSULTATIONS

Section 1. **Public Hearings/Consultations.** Prior to the issuance of a wage order, public hearings shall be conducted giving notices to employees' and employers' groups, provincial, city and municipal officials and other interested parties. The Board may also conduct consultations with concerned sectors/industries.

Section 2. **Who may Conduct.** Hearings may be conducted by the Board en banc or by a duly authorized committee thereof wherein each sector shall be represented. The presence of the Regional Chairman or any of the Vice Chairmen shall be required. If unable to attend, Board Members may send observers. The Board shall determine the date/s, place/s and time of the hearings which shall be opened to the public except as otherwise, requested by a party and so determined by the Board.

Sections 3. **Order of Hearing**. As much as practicable, the petitioner/s shall present his/their evidence first, followed by the oppositor/s. The Board may then call on other persons to present their view and submit position papers and other supporting documents.

Section 4. **Manner and Duration of Hearings**. Public hearings shall be conducted in a manner that shall ensure that all sectors and parties who stand to be directly affected by the Board are given the widest opportunity to be heard. Pursuant to this, the hearings shall be conducted in each province in the region as far as practicable.

Hearings shall be concluded within forty five (45) days from the date of initial hearing except when conditions in the region warrant otherwise.

Section 5. **Records of Proceedings**. The Board Secretariat shall keep records/minutes of all Board proceedings, duly noted by the members of the Board.

Section 6. **Non-applicability of Technical Rules**. The Board shall not be bound strictly by technical rules of evidence and procedures.

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

RULE IV WAGE ORDER

Section 1. **Issuance of Wage Order**. Within thirty (30) days after conclusion of the last hearing, the Board shall decide on the merits of the petition, and where appropriate, issue a wage order establishing the regional minimum wage rates to be paid by employers which shall in no case be lower than the applicable statutory minimum wage rates. The Wage Order may include wages by industry, province or locality as may be deemed necessary by the Board, provided, however, that such wage rates shall not be lower than the regional minimum wage rates.

The Board shall furnish the Commission a copy of the decision on the petition or the Wage Order.

Section 2. **Contents of Wage Order**. A Wage Order shall specify the region, province, or industry to which the minimum wage rates prescribed under the Order shall apply and provide exemptions, if any, subject to guidelines issued by the Commission.

Section 3. **Frequency of Wage Order**. Any Wage Order issued by the Board may not be disturbed for a period of twelve (12) months from its effectivity, and no petition for wage increase shall be entertained within the said period. In the event, however, that supervening conditions, such as extraordinary increase in prices of petroleum products and basic goods/services, demand a review of the minimum wage rates as determined by

the Board and confirmed by the Commission, the Board shall proceed to exercise its wage fixing function even before the expiration of the said period.

Section 4. **Review of Wage Order**. The Commission may review the Wage Order issued by the Board.

Section 5. **Effectivity**. A Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

Section 6. **Implementing Rules/Regulations**. The Board shall submit for approval of the Secretary of Labor and Employment upon recommendation of the Commission, the necessary Implementing Rules and Regulations not later than ten (10) days from the publication of the Wage Order.

The Secretary of Labor and Employment shall act on the Implementing Rules within a period of twenty (20) days from receipt of the said Implementing Rules from the Commission. Once approved, the Board shall cause the publication of the Implementing Rules and Regulations in at least one (1) newspaper of general circulation in the region.

Section.. 7. **Correction of Error**. The Board may, motu proprio or upon manifestation of any party, proceed to correct any patent error, errors in computation or typographical errors in any Wage Order.

Section 8. **Amendments to Wage Order**. In case of substantive changes in the Wage Order, the Board must comply with the required procedures provided under Section 1 of Rule II and Section 5 of Rule IV.

RULE V APPEAL

Section 1. **Appeal to the Commission**. Not later than ten (10) days from the date of publication of the Order, any party aggrieved by a Wage Order issued by the Board may appeal such Order to the Commission by filing a verified appeal with the Board in three (3) printed legible copies. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon, the arguments in support of the appeal and the relief being sought.

The Board shall serve notice of the appeal to concerned parties. Failure to file an appeal within the reglementary period fixed under this section or to submit the required documents shall be a ground for dismissal of the appeal.

A motion for reconsideration on the Wage Order filed with the Board, shall be treated as an appeal subject to the requisites for the perfection of appeal under this Rules.

Section 2. **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 3. **Transmittal of Records**. Immediately upon receipt of the appeal, the Board Secretariat shall transmit to the Commission Secretariat the appeal and a copy of the subject Wage Order together with the complete records of the case and all relevant documents.

Section 4. **Period to Act on Appeal**. The Commission shall decide on the appeal within sixty (60) days from the filing of said appeal.

Section 5. **Effect of Appeal**. The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

RULE VI QUORUM

Section 1. **Quorum**. Four (4) members of the Commission or Board shall constitute a quorum to transact business, provided that the Chairman or the Vice Chairman is present and each sector is represented. The Commission or Board may dispense with the proviso requiring sectoral representation if the two (2) representatives of any sector fail to attend, without justifiable reason, two (2) consecutive scheduled meetings with proper notice.

Section 2. **Votes Required**. Any decision of the Commission or Board shall require the affirmative vote of not less than four (4) of its members.

RULE VII WAGE DISTORTION

Section 1. **Correction of Wage Distortion**. Where the application of any prescribed wage increase by virtue of a Wage Order issued by the Board results in distortions of the wage structure within an establishment, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved 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) days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective 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) days of conciliation, 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. The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of any increase in prescribed wage rates pursuant to the provisions of the Wage Order.

RULE VIII EXEMPTIONS

Section 1. **Application for Exemption**. Whenever a Wage Order provides for exemption, applications for exemption shall be filed with the appropriate Board which shall process these applications, subject to guidelines issued by the Commission.

RULE IX ENFORCEMENT

Section 1. **Enforcement of Wage Orders**. Compliance with the Wage Orders issued by the Board shall be enforced by the appropriate Regional Office of the Department of Labor and Employment in accordance with enforcement procedures under Articles 128 and 129 of the Labor Code as amended.

RULE X DISPOSITION OF PENDING MATTERS

Section 1. **Disposition of Pending Matters**. The Commission/ Board shall exert all efforts to dispose of all matters pending before it within the shortest possible time.

RULE XI OFFICIAL RECORDS

Section 1. **Commission/Board Records**. All official records of the Commission/Board may be made available to interested parties, upon request, except those considered confidential and which cannot be divulged without violating a private right or prejudicing the public interest.

Section 2. **Custody of Records and Other Documents**. The Executive Director of the Commission Secretariat and the Head of the Board Secretariat shall be responsible for the safekeeping of all official records of the Commission and Board, respectively.

RULE XII REPEAL AND SEPARABILITY

Section 1. **Repeal and Separability**. All existing rules, regulations or orders or any part thereof inconsistent with this Amended Rules are hereby, repealed, amended or modified accordingly. If any part or provision of this Amended Rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

RULE XIII EFFECTIVITY

Section 1. **Effectivity**. This Amended Rules shall take effect fifteen (15) days after its publication in one (1) newspaper of general circulation.

Manila, Philippines, 19 June 2007.

(Sgd)**SEC. ARTURO D. BRION**
Chairman

(Sgd)**DIR. GEN. ROMULO L. NERI**
Vice-Chairman

(Sgd)**CEDRIC R. BAGTAS**
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