



RULES IMPLEMENTING WAGE ORDER NO. RTWPB-02-19

Pursuant to Section 6, Rule IV of the Amended Rules of Procedure on Minimum Wage Fixing and Section 17 of Wage Order No. RTWPB-02-19, the following rules are hereby issued for the guidance and compliance of all concerned:

Rule I

DEFINITION OF TERMS

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

- a. **"Wage Order"** means Wage Order No. RTWPB-02-19 promulgated by this Regional Board pursuant to its wage fixing authority.
- b. **"Commission"** means the National Wages and Productivity Commission.
- c. **"Regional Board"** means the Regional Tripartite Wages and Productivity Board of Region 02.
- d. **"Region 02"** covers the Cities of Tuguegarao, Cauayan and Santiago and the Provinces of Cagayan, Isabela, Quirino, Nueva Vizcaya and Batanes.
- e. **"Productivity"** refers to the relation of output to input in physical and/or real monetary terms.
- f. **"Productivity-based Pay"** refers to the pay given to workers over and above the mandatory minimum wage as a result of the voluntary productivity incentive scheme.
- g. **"Barangay Micro Business Enterprises (BMBEs)"** are those registered with the local government units where they are located and issued with Certificates of Authority pursuant to R.A. 9178, otherwise known as the BMBE Law.
- h. **"Agriculture"** refers to farming in all its 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 farming operations, but does not include the manufacturing and/or processing of, aquatic and other farm products.
- i. **"Retail Establishment"** refers to an entity principally 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.

- j. **“Service Establishment”** refers to an entity principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such.
- k. **“Establishments Adversely Affected by Calamities”** refer to establishments which incurred losses due to natural or human-induced disasters such as earthquake, typhoons, fire and similar occurrences.
- l. **“Minimum Wage Rates”** refers to the lowest wage rate that an employer should pay his workers.
- m. **“Wage Distortion”** refers to 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 distinction embodied in such wage structure based on skills, length of service or other logical bases of differentiation.
- n. **“State of Calamity”** refers to a condition involving mass casualty and/or major damages to property, disruption of means of livelihoods, roads and normal way of life of people in the affected areas as a result of the occurrence of a natural or human-induced hazard (Section 3 of RA 10121, “Philippine Disaster Risk Reduction and Management Act of 2010).
- o. **“Hazard”** refers to 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 and/or public health; any phenomenon which has the potential to cause disruption or damage to people, their property, their services of their environment, i.e. their communities. The four classes of hazards are natural technological, biological and societal hazards. (National Disaster Risk Reduction and Management Council NDRRMC)
- p. **“Disaster”** refers to a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds 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 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 or resources, resulting in unacceptable levels of damage or number of casualties. (NDRRMC)



Rule II

THE NEW MINIMUM WAGE RATES AND ITS APPLICATION

Section 1. NEW MINIMUM WAGE RATES. Upon effectivity of this Wage Order, all minimum wage workers and employees of private establishments in Region 02 shall be paid the following minimum wage rates:

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INDUSTRY/SECTOR	MINIMUM WAGE RATES UNDER WAGE ORDER No. RTWPB-02-18	BASIC WAGE INCREASE	NEW BASIC WAGE	COST OF LIVING ALLOWANCE (COLA)	NEW MINIMUM WAGE RATES
1. Non Agriculture; and Retail/Service Establishments employing more than 10	340.00	10.00	350.00	10.00	360.00
2. Agriculture	320.00	10.00	330.00	10.00	340.00
3. Retail/Service Establishments employing not more than 10	300.00	10.00	310.00	10.00	320.00

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

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Excluded from the coverage of this Wage Order are domestic workers and persons in the personal service of another, and workers of registered Barangay Micro-Business Enterprises (BMBEs) with valid Certificates of Authority.

Section 3. APPLICATION OF THE NEW WAGE RATES. The new wage rates prescribed under this Wage Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

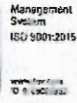
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Section 4. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. All private educational institutions shall implement the wage rates prescribed herein starting School Year 2018-2019, without prejudice to any existing and valid collective bargaining agreement (CBA) between the management and the employees.

Private educational institutions which have not increased their tuition fees for the School Year 2018-2019 may defer compliance with the provisions of this Wage Order until the beginning of the School Year 2019-2020.

In any event, all private educational institutions shall implement the wage increase prescribed herein starting School Year 2019-2020.

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Section 5. WORKERS PAID BY RESULTS. 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 rate for eight (8) normal working hours a day, or a portion thereof for those working less than eight (8) hours.

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

1. Amount of increase in AMW*

$$\frac{\text{-----}}{\text{Previous AMW}} \times 100 = \text{Percent increase}$$

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.

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

Section 6. APPLICATION TO WORKERS COVERED BY CONTRACTS FOR WORKS AND SERVICES.

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

Section 7. WAGE FOR SPECIAL GROUPS OF WORKERS. The minimum wage rate of apprentices and learners shall in no case be less than seventy-five percent (75%) of the prescribed minimum wage rates in the Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of this order shall be considered automatically modified in accordance with this Order.

All qualified handicapped workers shall receive the full amount of the new wage rates prescribed herein pursuant to Republic Act 7277, otherwise known as the Magna Carta for Disabled Persons.

Section 8. MOBILE AND BRANCH WORKERS. The prescribed 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 prescribed 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 9. TRANSFER OF PERSONNEL. The transfer of personnel to areas outside the Regions shall not be a valid ground for the reduction of the prescribed minimum wage rates being enjoyed by the workers prior to such transfer. The workers transferred to the other Regions with higher minimum wage rates shall be entitled to the prescribed minimum wage rates applicable therein.

Section 10. 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 11. 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 12. 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 13. PERIOD TO ACT ON APPEAL. The Commission shall decide on the appeal within sixty (60) days from the filing of said appeal.

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



Rule III

EXEMPTIONS

Section 1. EXEMPTION FROM COMPLIANCE WITH THE WAGE ORDER. Applications for exemption from compliance with this Order shall not be allowed except in case of establishments adversely affected by calamities such as natural or human-induced disasters, pursuant to NWPC Guidelines No. 02, Series of 2007 as amended by NWPC Resolution 01, series of 2014.

Section 2. CRITERIA FOR EXEMPTION. The following criteria shall be used to determine whether or not the applicant-establishment adversely affected by calamity 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 this 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.
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 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.

Section 3. DOCUMENTS REQUIRED.

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

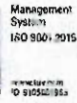
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application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

2. 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/damages suffered as a 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.
3. Copies of insurance policy contracts covering the properties damaged, if any.
4. Adjuster's report for insured properties.
5. Audited financial statements for the last full accounting period preceding the effectivity of the Wage Order stamped "received" by the appropriate government agency.
6. In case of severe damage to properties caused by the calamity, a Certification by the Barangay and pictures of the 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. PROCEDURE ON APPLICATION FOR EXEMPTION.

1. An application in three (3) typewritten copies may be filed by the owner/manager or duly authorized representative of an establishment in person or by registered mail to the Board or to DOLE Regional or Field Offices. The date of mailing shall be deemed as the date of filing.
2. The application shall be under oath and accompanied by complete supporting documents as specified in the Rules.
3. Where the calamity occurred after the expiration of the period for the filing of an application for exemption, the Board may re-open the same. The applicant shall also submit a certification that a general assembly to explain to its workers and employees its intent to file an application for exemption has been conducted prior to the filing of the application and an undertaking to conduct



another general assembly informing its workers and employees of the decision of the Board on its application.

Section 5. EXTENT AND DURATION OF EXEMPTION. A full exemption of one (1) year from the effectivity of the Order shall be granted to applicant establishments that meet the applicable aforementioned criteria.

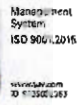
Section 6. ACTION ON APPLICATION FOR EXEMPTION. Upon receipt of an application with complete documents, the Board shall take the following steps:

1. 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.
2. Request the DOLE Regional Office to conduct ocular inspection if necessary, of establishments applying for exemption to verify the number of workers, nature of business and other relevant information.
3. 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.
4. 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 applications for exemption.

Section 7. EFFECT OF APPLICATION FOR EXEMPTION. Whenever an application for exemption has been duly filed with the Regional Board, the Regional Office of the Department shall be duly notified. Pending resolution of the said application, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

In the event that the application for exemption is not approved, the employees of the applicant firm shall receive the appropriate wage increase due them as provided for in the Wage Order together with the payment of interest amounting to one percent (1%) per month retroactive to the date of effectivity of the Wage Order.

Section 8. MOTION FOR RECONSIDERATION. 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 receipt of the decision,



stating the particular grounds upon which the motion is based, copy furnished the other party and the Regional Office of the Department.

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

Section 9. APPEAL TO THE COMMISSION. Any party aggrieved by a decision of denial of application for exemption may file, in two (2) legible copies, a verified appeal with the Commission through the Board within ten (10) calendar days from the receipt of said denial.

The appeal with proof of notice to the concerned party, shall be accompanied with a memorandum of appeal which shall state the date the appellant received the decision, the grounds relied upon and the arguments in support of the appeal. An appeal may be filed on the following grounds:

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

Rule IV

SPECIAL PROVISIONS

Section 1. WAGE DISTORTION. Pursuant to Article 124 of the Labor Code of the Philippines, as amended, any dispute that should 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 said 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 (NCMB) and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

Section 2. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Wage Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) having jurisdiction over the workplace and shall be subject to the mandatory thirty (30) days 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 3. NON-DIMINUTION OF BENEFITS. Nothing in the Wage Order and in this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and the employers.

Section 4. PRODUCTIVITY AND OTHER PERFORMANCE INCENTIVE PROGRAMS. In order to sustain rising levels of wages and enhance competitiveness, labor and management as partners in business are encouraged to adopt productivity improvement schemes that will improve the quality of work of employees and, in turn, enable them to produce more and earn more, such as time and motion studies, good housekeeping, quality circles, labor-management cooperation, as well as implement gainsharing programs and other performance incentive programs.

Pursuant to the Two-Tiered Wage System, the Board issued Advisory No. RTWPB-II-01, with higher educational institutions as its target industry, notwithstanding the issuance of future advisories to guide workers and management in the formulation, adoption and implementation of programs and productivity-based incentive schemes.

Section 5. SUGGESTED FORMULA IN DETERMINING THE EQUIVALENT MONTHLY REGIONAL MINIMUM WAGE RATES. Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rates:

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

$$\text{Applicable Daily Rate (ADR)} \times 393.5 / 12 \text{ months} = \text{EEMR}$$

Where 393.5 days/year=	298	Ordinary working days
	24	Regular holidays
	67.6	52 rest days x 130%
	<u>3.9</u>	3 special days x 130%
	393.5	Total no. of days/year

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

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

Where 393.5 days:

298	Ordinary working days
52	Rest days / Sundays
12	Regular Holidays



3
365 Special Days
Total no. of days/year

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

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

Where 313 days:

298 Ordinary working days
 12 Regular holidays
3 Special days
313 **Total no. of days/year**

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

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

Where 261 days:

246 Ordinary working days
 12 Regular holidays
3 Special holidays
261 **Total no. of days/year**

Section 6. PENAL PROVISION. Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed wage rates in the Wage 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 court. Provided, that any person convicted under the Wage 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 criminal liability imposable under this Act.

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



Section 7. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board.

Section 8. FREEDOM TO BARGAIN. This Wage Order shall not be construed to prevent workers in particular firms or enterprises or industries from bargaining for higher wages with their respective employers.

Section 9. 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 RTWPB 02 not later than January 31, 2018 and every year thereafter in accordance with the form prescribed by the Commission.


Section 10. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.


Section 11. 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.

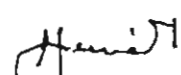
Section 12. EFFECTIVITY. These Rules shall take effect upon the effectivity of the Wage Order.

Done in Tuguegarao City, Cagayan this 22nd day of October, 2018.


CECILIA LA MADRID-DY
 Employers' Representative


ARCELI L. DULIN
 Employers' Representative


JOHNNY M. ALVARO
 Employees' Representative



ERNESTO J. FUECONCILLO
 Employees' Representative


DIONESIO C. LEDRES, JR.
 Vice Chairperson


RUBEN B. DICIANO
 Vice Chairperson


SARAH BUENA S. MIRASOL
 Chairperson

Approved this November 22, 2018.


SILVESTRE H. BELLO III
 Secretary
 Department of Labor and Employment