



WAGE ORDER NO. RBV-17

PROVIDING FOR WAGE INCREASE TO PRIVATE SECTOR WORKERS IN THE BICOL REGION

WHEREAS, the Regional Tripartite Wages and Productivity Board V (RTWPB V) is mandated under Republic Act (RA) 6727 (The Wage Rationalization Act) to periodically assess the wage rates and conduct continuing studies in the determination of the minimum wage applicable in the Region;

WHEREAS, pursuant to its mandate under the law to review motu proprio the minimum wage in the Region, RTWPB V after giving due notice to all concerned sectors conducted Public Wage Consultations/Hearings on July 16, 23, 30, August 6, 7 and 13, 2015 in the Provinces of Catanduanes, Masbate, Sorsogon, Camarines Norte, Camarines Sur and Albay, respectively;

WHEREAS, after a thorough evaluation of the existing socio-economic conditions of the Region and based on the public hearing, studies and deliberations conducted, the Regional Board has determined the need to provide workers with immediate relief measures to enable them to cope with the rising cost of living without impairing the viability of business and industry;

WHEREAS, consistent with the government policy of achieving higher levels of productivity to promote economic growth and generate employment, and to augment the income of workers, there is a need to build the capacity of business enterprises to be competitive through productivity improvement programs;

WHEREAS, the Two-Tiered Wage System, a key policy reform measure of the Department of Labor and Employment, is aimed at minimizing the unintended outcomes of mandated minimum wage, improving the coverage of the vulnerable sectors, and promoting productivity improvement and gainsharing;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, RTWPB V hereby issues this Wage Order.

Section 1. NEW MINIMUM WAGE RATES. Upon the effectivity of this Wage Order, the daily minimum wage rates of workers and employees in the private sector shall be as follows:

Sector / Industry	Minimum Wage Under Wage Order No. RBV-16	Basic Wage Increase	New Minimum Wage Rates
A. NON-AGRICULTURE			
A.1. Establishments			
-Employing more than ten (10) workers	260.00	5.00	P265.00
-Employing not more than ten (10) workers	236.00	12.00	P248.00
A.2. Cottage/Handicraft	236.00	12.00	P248.00
B. AGRICULTURE	236.00	12.00	P248.00

Section 2. COVERAGE. The wage rate per day prescribed in 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.

This Wage Order shall not cover kasambahay/domestic workers, persons in the personal service of another, including family drivers, and workers of duly registered Barangay Micro-Business Enterprises (BMBEs) with Certificates of Authority pursuant to RA 9178, as amended.

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. PRODUCTIVITY-BASED WAGES. In order to sustain the rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor-management cooperation as well as implement gainsharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. (RA) 6971 or the Productivity Incentives Act of 1990.

Section 5. CREDITABLE WAGE INCREASE. Wage increases or allowances granted by an employer within three (3) months before the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein. Where the wage increases or allowances granted are less than that prescribed under this Order, the employer shall pay the difference.

Anniversary wage increases provided in collective bargaining agreements, merit wage increases and those resulting from the regularization or promotion of employees shall not be credited as compliance herewith.

Benefits derived from productivity gain-sharing schemes shall not be credited as compliance.

Section 6. 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 2015-2016 shall be considered as compliance with the increase set forth herein. However, payment of any shortfall in the wage increase set forth herein shall be covered starting school year 2016-2017.

Private educational institutions, which have not increased their tuition fees for the School Year 2015-2016, may defer compliance with the provisions of this Order until the beginning of School Year 2016-2017.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2016-2017.

Section 7. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piecework, "takay", "pakyaw" or task basis, shall 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.

Section 8. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates of the workers shall be borne by the principals or clients of the construction/service contractors and the contracts 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 contractor shall be jointly and severally liable with his principal or client.

Section 9. WAGES OF SPECIAL GROUPS OF WORKERS. Apprentices and learners shall receive not less than seventy-five (75%) of the applicable minimum wage rate prescribed herein.

All 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 new prescribed wage rates.

All qualified handicapped workers shall receive the full amount of the minimum wage rate in this Order pursuant to R.A. 7277 (*The Magna Carta for Disabled Persons*).

Section 10. EXEMPTIONS. Upon application with and as determined by the Board, based on documentation and other requirements in accordance with NWPC Guidelines No. 02, Series of 2007, the following establishments may be exempted from the applicability of this Order:

- a. Retail/service establishments regularly employing not more than ten (10) workers;
- b. Distressed establishments;
- c. New business enterprises; and
- d. Establishments adversely affected by calamities and human-induced disasters.

Section 11. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal with the Commission, through the Board, in three (3) printed copies, not later than ten (10) calendar days from the publication of this Order.

Section 12. 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 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 wage increase prescribed in the Order results in distortion in the wage structure within the establishment it shall be corrected in accordance with the procedure under Article 124 of the Labor Code of the Philippines, *as amended*.

Section 14. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Order shall be filed with the Regional Office V of the Department of Labor and Employment (DOLE) and shall be subject of enforcement proceedings under Article 128 and 129 of the Labor Code, *as amended*, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

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 or employer practices or policies.

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

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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.

Section 18. FREEDOM TO BARGAIN. This Order shall not be construed to prevent workers in particular firms or enterprises of 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, 2016 and every year thereafter in accordance with the form prescribed by the Commission.

Section 20. REPEALING CLAUSE. All orders, issuances, rules and regulations or parts thereof inconsistent with the provisions 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 in conflict with existing law,, the other provisions or parts thereof shall remain valid.

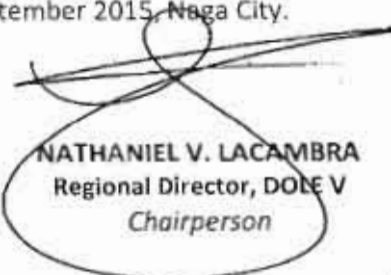
Section 22. IMPLEMENTING RULES. The Board shall prepare the necessary Rules and Regulations to implement this Order, subject to the approval of the Secretary of Labor and Employment, not later than 10 days from publication of the Wage Order.


Section 23. ADVISORY ON PRODUCTIVITY-BASED PAY (PBP). Pursuant to the Two-Tiered Wage System, Wage Advisory No. RTWPB V-01 has been issued to serve as guidelines for private establishments to set the range of productivity bonuses and incentives that an enterprise or industry may provide based on the agreement between the workers and the management.


The DOLE Regional Office V shall monitor the implementation of the agreed productivity-based pay.

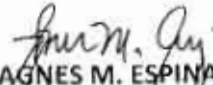
Section 24. EFFECTIVITY. This Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the Region.

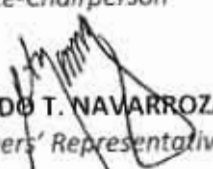
APPROVED: 02 September 2015, Naga City.


NATHANIEL V. LACAMBRA
Regional Director, DOLE V
Chairperson


JOCELYN L.B. BLANCO
Regional Director, DTI V
Vice-Chairperson


MARCELO S. TAN
Employers' Representative


AGNES M. ESPINAS
OIC-Regional Director, NEDA V
Vice-Chairperson


EDGARDO T. NAVARROZA
Employers' Representative




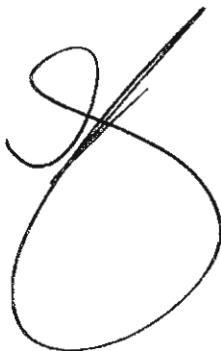
RULES IMPLEMENTING WAGE ORDER NO. RBV-17

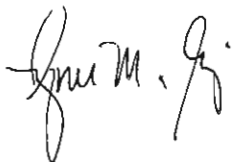
Rule I - General Provisions

Pursuant to Section 6, Rule IV of the NWPC Amended Rules of Procedure on Minimum Wage Fixing and Section 22 of Wage Order No. RB V-17, the following Rules are hereby issued for the guidance and compliance by all concerned.

Section 1. Title. This Rules shall be known as the "Rules Implementing Wage Order No. RB V-17".

Section 2. Definition of Terms.

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- a. **Order** means Wage Order No. RB V-17;
 - b. **Department** refers to the Department of Labor and Employment;
 - c. **Commission** refers to the National Wages and Productivity Commission;
 - d. **Board** refers to the Regional Tripartite Wages and Productivity Board in Region V;
 - e. **Regional Office** – refers to the regional office of the Department of Labor and Employment in Region V;
 - f. **Region V** covers the Provinces of Albay, Camarines Norte, Camarines Sur, Catanduanes, Masbate, Sorsogon and the Cities of Iriga, Legazpi, Ligao, Masbate, Naga, Sorsogon and Tabaco;
 - g. **Agriculture** refers to farming in all its branches and among others, includes cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural commodity, 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;
 - h. **Establishment** refers to an economic unit that engages in one or predominantly one kind of economic activity at a single fixed location. For purposes of determining eligibility for exemption, establishments under the same owner/s but are separately registered with the LGU, SEC, DTI or CDA as the case may be, irrespective of their location, shall be treated as individual and distinct establishments;
 - 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;
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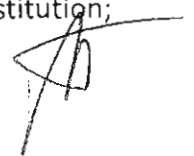
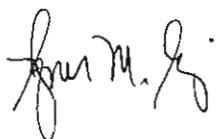


- j. **Service Establishment** refers to an entity principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such;
- k. **Distressed Establishment** refers to an establishment which meet the criteria enumerated in Section 3A of National Wages and Productivity Commission (NWPC) Guidelines No. 02, Series of 2007 or the Amended Rules on Exemption from Compliance with the Prescribed Wage Increases/Cost of Living Allowances Granted by the Regional Tripartite Wages and Productivity Boards;
- l. **Barangay Micro Business Enterprise** refers to any business entity registered and issued a Certificate of Authority in accordance with R.A. 9178;
- m. **Cottage/Handicraft Establishment** is one engaged in an economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship;
- n. **Basic Wage** means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost-of-living allowances, profit-sharing payments, overtime and premium payments, 13th month pay or other monetary benefits which are not considered as part of nor integrated into the regular salary of the employees on the date the Order became effective;
- o. **Minimum Wage Rate** refers to the lowest wage rate that an employer can pay his workers as fixed by the Board;
- p. **New Business Enterprises** refers to establishments, including non-profit institutions, established within two (2) years from the effectivity of the Order based on the latest registration with the appropriate government agency such as SEC, DTI, CDA and Mayor's Office; and
- q. **Paid-up Capital** refers to the total amount of shareholder capital that has been paid by shareholders;
- r. **Capital** refers to paid-up capital at the end of the 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 partnerships and single proprietorships;
- s. **Capital Impairment** refers to the diminution of capital due to accumulated losses;
- t. **Stockholders' Equity** refers to the residual interest in the assets of an entity that remains after deducting its liabilities. It is total assets minus total liabilities. It is the same as equity and net worth;
- u. **Full Accounting Period** refers to a period of twelve (12) months or one year of business operations;
- v. **Interim Period** refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year);
- w. **Deficit** refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic

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earnings, divided distributions, prior period adjustments and other capital adjustments;

- x. **Total Assets** refers to things of value owned by the business such as cash, machines, building and land which can be measured or expressed in money terms;
- y. **Net Loss** refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues;
- z. **Financial Statement** refers to a written report which quantitatively describes the financial health of a company;
- aa. **Stock Corporation** refers to one organized for profit and issues shares of stock to its members;
- bb. **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;
- cc. **Partnership** refers to an association of two 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;
- dd. **Single Proprietorship** refers to a business unit owned and controlled by only one person;
- ee. **Cooperative** refers to a duly registered association pursuant to RA 6938 (Cooperative Code of the Philippines) and other laws;
- ff. **Wage Distortion** means a situation where the application of the wage increase prescribed in a Wage Order, 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;
- gg. **Quasi-banks** refers to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas;
- hh. **Conservatorship** refers to a remedy resorted to by the monetary board in case a bank or quasi-bank is in a state of continuing inability or unwillingness to maintain condition of liquidity deemed adequate to protect the interests of the depositors and creditors. A conservator is appointed to manage the establishment in order to restore its viability;
- ii. **Receivership/Liquidation** refers to a remedy resorted by the Monetary Board in case a bank or quasi-bank is (a) unable to pay its liabilities as they become due in the ordinary course of business; (b) has insufficient realizable assets as determined by the Bangko Sentral ng Pilipinas to meet its liabilities; (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has willfully violated a cease and desist order under Sec. 37 that has become final involving acts or transactions which amount to fraud or dissipation of the assets of the institution;



- jj. **Under Corporate Rehabilitation** refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction;
- kk. **Two-Tiered Wage System** – refers to a pay system consisting of 1. Minimum Wage; and 2. Incentive Pay based on productivity improvement and gainsharing;
- ll. **Advisory** – refers to the Wage Advisory issued by the Board in accordance with the Two-Tiered System;
- mm. **Establishments Adversely Affected by Natural Calamities and Human-Induced Disasters** refers to establishments in an area declared by a competent authority to be under a state of calamity.
- nn. **State of Calamity** – refers to a condition involving mass casualty and/or major damage 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;
- oo. **Hazard** – a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury and 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;
- pp. **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 lack of time, capacity or resources, resulting in unacceptable levels of damage or number of casualties.

Rule II - The New Minimum Wage Rates

Section 1. New Minimum Wage Rates. Upon the effectivity of the Wage Order, the daily minimum wage rates of workers and employees in the private sector shall be as follows:

Sector / Industry	Minimum Wage Under Wage Order No. RBV-16	Basic Wage Increase	New Minimum Wage Rates
A. NON-AGRICULTURE			
A.1. Establishments -Employing more than ten (10) workers	260.00	5.00	P265.00

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-Employing not more than ten (10) workers	236.00	12.00	P248.00
A.2. Cottage/Handicraft	236.00	12.00	P248.00
B. AGRICULTURE	236.00	12.00	P248.00

Section 2. Basis of Minimum Wage Rates. The new minimum wage rates prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 3. Coverage. The wage rate per day prescribed in 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.

This Wage Order shall not cover kasambahay/domestic workers, persons in the personal service of another, including family drivers, and workers of duly registered Barangay Micro-Business Enterprises (BMBEs) with Certificates of Authority pursuant to RA 9178, as amended.

Section 4. Productivity Based Wages. In order to sustain the rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor-management cooperation as well as implement gainsharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. (RA) 6971 or the Productivity Incentives Act of 1990.

Section 5. Creditable Wage Increase. Wage increases or allowances granted by an employer within three (3) months before the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein. Where the wage increases or allowances granted are less than that prescribed under this Order, the employer shall pay the difference.

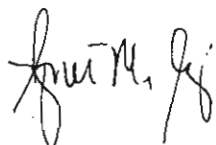
Anniversary wage increases provided in collective bargaining agreements, merit wage increases and those resulting from the regularization or promotion of employees shall not be credited as compliance herewith.

Section 6. 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 2015-2016 shall be considered as compliance with the increase set forth herein; provided that if such increase is less than the prescribed adjustment, the employer shall pay the difference in the School Year 2016-2017.

Private educational institutions, which have not increased their tuition fees for the School Year 2015-2016, may defer compliance with the provisions of this Order until the beginning of School Year 2016-2017.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2016-2017.

Section 7. Workers Paid by Results. All workers paid by results, including those who are on piecework, "takay", "pakyaw", or task basis, shall receive not less than the applicable



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minimum wage rates prescribed under the Order for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

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

- a. **Amount of Increase in AMW*** = $\frac{\% \text{ Increase}}{\text{Previous AMW}}$
- 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.

 **Section 8. Application to Contractors.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates of the workers shall be borne by the principals or clients of the construction/service contractors and the contracts 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 contractor shall be jointly and severally liable with his principal or client.

Section 9. Wages of Special Groups of Workers. Apprentices and learners shall receive not less than seventy-five percent (75%) of the applicable minimum wage rate prescribed herein.

All learnership and apprenticeship agreements entered into before the effectivity of the Order shall be considered automatically modified insofar as their wage clauses are concerned to reflect the new prescribed wage rate.

All qualified handicapped workers shall receive the full amount of the minimum wage rate in the Order pursuant to R.A. 7277.

Section 10. 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 everyday including Sundays or rest days, special days and regular holidays:

 Equivalent Monthly Rate (EMR) = $\frac{\text{Applicable Daily Wage Rate (ADR)} \times 393.50 \text{ days}}{12}$ 3

Where 393.50 days:

298	Days	-	Ordinary working days
24	Days	-	12 regular holidays x 200%
67.60	Days	-	52 rest days x 130%
3.90	Days	-	3 special days x 130%

393.50 Days - Total equivalent number of days

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 365 days:

298	Days	-	Ordinary working days
52	Days	-	Rest days/Sundays
12	Days	-	Regular Holidays
3	Days	-	Special days
365	Days	-	Total equivalent number of days

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

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

Where 313 days:

298	Days	-	Ordinary working days
12	Days	-	Regular Holidays
3	Days	-	3 Special days (if worked) x 130%
313	Days	-	Total equivalent number of days

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

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

Where 261 days:

246	Days	-	Ordinary working days
12	Days	-	Regular Holidays
3	Days	-	3 Special days (if worked) x 130%
261	days	-	Total equivalent number of days

Section 11. Mobile and Branch Workers. The prescribed minimum wage rates of workers, who by the 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 12. 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 wage rates shall be entitled to the minimum wage rates applicable therein.

Section 13. Appeal to the Commission. Any party aggrieved by the Wage Order may file an appeal with the Commission through the Board within ten (10) calendar days from its publication. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing. The 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 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 minimum wage rates, in the event such Order is affirmed.

Rule III - Exemption

Section 1. Exemptible Establishments - The following establishments may be exempted from the applicability of the Order upon application with and as determined by the Board, in accordance with the NWPC Guidelines No. 02, Series of 2007;

- a) Retail/service establishments regularly employing not more than ten (10) workers;
- b) Distressed establishments;
- c) New business enterprises; and
- d) Establishments adversely affected by natural calamities and human-induced disasters.

Section 2. Criteria for Exemption – The following criteria shall be used to determine whether the applicant-establishment is qualified for exemption:


 **A. Retail/Service Establishments Regularly Employing Not More Than Ten (10) Workers**

Exemption may be granted to retail/service establishment when:

1. It is engaged in the retail sale of goods and/or services to end users for personal or household use.
2. It is regularly employing not more than ten (10) workers regardless of status, except the owner/s, for at least six (6) months in any calendar year.

B. Distressed Establishments

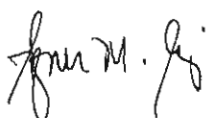
1. For Corporations/Cooperatives

 a. Full Exemption

- a.1. When the deficit as of the last full accounting period immediately preceding the effectivity of the Order amounts to 20% or more of the paid-up capital for the same period; or
- a.2. When an establishment registers capital deficiency i.e., negative stockholders' equity, as of the last full accounting period immediately preceding the effectivity of the Order.

b. Partial Exemption

- b.1. When the deficit as of the last full accounting period immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the paid-up capital for the same period.









c. Conditional Exemption

c.1. When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

2. For Single Proprietorships/Partnerships

a. Full Exemption:

a.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review; or

a.2. When an establishment registers capital deficiency i.e. negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.

b. Partial Exemption

b.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the total invested capital at the beginning of the period under review.

c. Conditional Exemption

c.1. When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of the total assets.

3. For Non-stock, Non-profit Organizations

a. Full Exemption

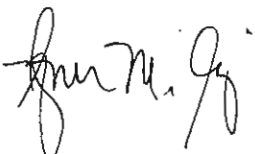
a.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members contribution at the beginning of the period; or

a.2. When an establishment 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.

b. Partial Exemption:

b.1. When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but not more than 20% of the fund balance/members' contribution at the beginning of the period.

c. Conditional Exemption:



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c.1. When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.

4. For Banks and Quasi-banks

a. Under receivership/liquidation

Exemption may be granted to a bank or quasi-bank under receivership or 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 RA 7653, otherwise known as the New Central Bank Act.

b. Under controllership/conservatorship

A bank or quasi-bank under controllership/conservatorship may apply for exemption as a distressed establishment.

5. Establishments Under Corporate Rehabilitation

Exemption may be granted to corporations, partnerships and associations under corporate rehabilitation when there is an order from a court of competent jurisdiction that it is under rehabilitation as provided in Section 6 Rule IV of the Interim Rules of Procedure on Corporate Rehabilitation (2000).

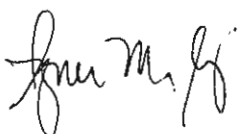
C. New Business Enterprises

Exemption may be granted to New Business Enterprises established within two (2) years from effectivity of the Order, classified under any of the following:

1. Agricultural establishments whether plantation or non-plantation.
2. Establishments with total assets after financing of Five Million Pesos (P5,000,000.00) and below.

D. Establishments Adversely Affected by Natural Calamities and Human-Induced Disasters

1. The establishment must be located in an area declared by competent authority as under a state of calamity.
2. The calamity must have occurred within six (6) months prior to the effectivity of the Order. However, if based on the assessment by a competent authority, the damage to properties is at least fifty percent (50%) and the period of recovery will exceed one year, the six 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 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.

Section 3. Application for Exemption and Documentary Requirements - For all categories of 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 the circular giving general notice of the filing of the application to all the workers in the establishment is required. The proof of notice, which may be 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.

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


 An application 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 the date of filing. Applications for all categories shall be under oath and accompanied by complete supporting documents and must be filed not later than seventy five (75) days from publication of the approved Implementing Rules. In the case of new business enterprises, applications shall be filed not later than sixty (60) days from the date of registration. No further extension for filing and submission of the required documents shall be allowed.

In case of application for establishments adversely affected by calamities when the calamity occurred after the expiration of the period for the filing of an application for exemption, the Board may reopen the same.

Applications under the preceding paragraph shall also include 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 assembly informing its workers and employees of the decision of the Board in its application.

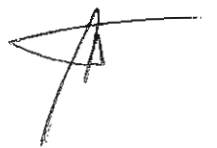
The following documents shall be submitted together with the application for exemption:

- A. Retail/service establishments regularly employing not more than ten (10) workers 3
 1. Affidavit from employer stating the following:
 - a. It is a retail/service establishment.
 - b. It is regularly employing not more than ten (10) workers for at least six months in any calendar year.
 2. Business permit for the current year from the appropriate government agency.
- B. Distressed establishments


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1. For corporations, cooperatives, single proprietorship, partnerships, non-stock, non-profit organizations

a. Full or Partial Exemption

a.1 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

b. Conditional Exemption

b.1 Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last full accounting period and interim quarterly financial statement/s for the period immediately preceding the effectivity of the Order

b.2 To confirm the grant of conditional exemption, audited financial statements for the last full accounting period, stamp received by the appropriate government agency, to be submitted within 30 days from the lapsed of the one-year exemption period

2. For Banks and Quasi-banks

Certification from Bangko Sentral ng Pilipinas that it is under receivership/liquidation

3. For Establishments Under Corporation Rehabilitation

Order from a court of competent jurisdiction that the establishment is under rehabilitation.

C. New business enterprises

1. Affidavit from employer regarding the following:

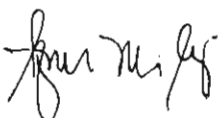
- 1.1 Principal economic activity;
- 1.2 Date of registration with the appropriate government agency;
- 1.3 Amount of total assets.

2. Certificate of registration from the appropriate government agency.

D. Establishments adversely affected by natural calamities and human-induced disasters

1. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:

- 1.1 Date and type of calamity,
- 1.2 Amount of losses/damages suffered as a direct result of the calamity,
- 1.3 List of properties damaged/lost together with estimated valuation,
- 1.4 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, were applicable; and
4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped "received" by the appropriate government agency.
5. In case of severe damage to properties cause by the calamity, a certification by the barangay and pictures of the damage property/ies may be submitted in lieu of the audited financial statements.

Section 4. Duration and 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 3 of NWPC Guidelines No. 02, Series of 2007.

However, a partial exemption of 50% with respect to the amount or period of exemption may be granted only in the case of distressed establishments.

Conditional exemption of one (1) year from effectivity of the Order shall be granted only in the case of distressed establishments. The conditional exemption shall be confirmed, as follows:

1. For Corporations

1.a. When deficit as of the last full accounting period amounts to 20% or more of the paid-up capital for the same period.

2. For Single Proprietorships and Partnerships

2.a. When net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review.

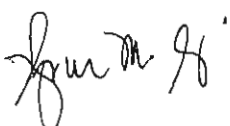
3. For Non-Stock, Non-Profit Organizations

3.a. When net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period.

In the absence of such actual losses, the company shall pay its workers the wage increases due them under the Order, retroactive to the effectivity of the Order.

Section 5. Application for Projects/Branches/Divisions. Where the exemption being sought is for a particular project/branch/division not separately registered and licensed, the consolidated audited financial statements of the establishment shall be used as basis for determining its distressed condition.

Section 6. Distressed Principal. Exemption granted to a distressed principal shall not extend to its contractor in case of contract(s) for projects, security, janitorial and/or similar services with respect to the employees of the latter assigned to the former.






Section 7. Effect of Filing of Application for Exemption - Whenever an application for exemption has been filed with the Board, the Regional Office of the Department shall be duly notified. Pending final 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.


Section 8. Effect of Disapproved Application for Exemption - In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage increase as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

Section 9. 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 10. Appeal to the Commission. Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two 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, should 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.

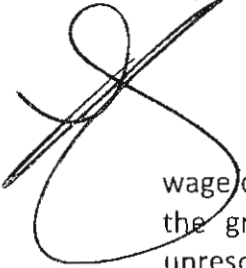
 An appeal may be filed on the following grounds:

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

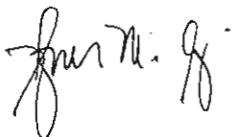
The Appellee may file with the Board his reply or opposition to the appeal within ten (10) days from receipt of the appeal. Failure of the Appellee to file his reply or opposition shall be construed as waiver on his part to file the same.

Section 11. 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.

Rule IV - Special Provisions

 **Section 1. Effect on Existing Wage Structure.** Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortions 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 disputes shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute is 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 there from 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









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be referred to the appropriate branch of the National Labor Relation 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.

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. Complaints for Non-Compliance. Complaints for non-compliance with this Order shall be filed with the Regional Office V of the Department of Labor and Employment (DOLE) and shall be subject of enforcement proceedings under Article 128 and 129 of the Labor Code, *as amended*, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 3. Non-diminution of Benefits. Nothing in the Order and this Rule 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 or employer' practices or policies.

Section 4. 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 increase in the 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 Order shall not be entitled to the benefits provided for under the Probation Law.

If the violation is committed by a corporation, trust or firms, 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.

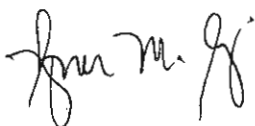
Section 5. Prohibition Against Injunction. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Board.

Section 6. 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 7. Reporting Requirements. 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, 2017 and every year thereafter in accordance with the form prescribed by the Commission.

Section 8. Repealing Clause. All orders, issuances, rules and regulations on wage, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

Section 9. 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.




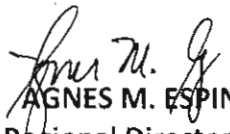
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Section 10. Effectivity of Rules. This Rules shall take effect on _____.

APPROVED: 07 September 2015, Naga City.


NATHANIEL V. LACAMBRA
Regional Director, DOLE V
Chairperson


JOCELYN LB. BLANCO
Regional Director, DTI V
Vice-Chairperson


AGNES M. ESPINAS
OIC-Regional Director, NEDA V
Vice-Chairperson



MARCELO S. TAN
Employers' Representative


EDGARDO T. NAVARROZA
Employers' Representative


RONALDO C. AFABLE
Workers' Representative

(VACANT)
Workers' Representative

Approved this 18th day of December, 2015.


ROSALINDA DIMARILIS-BALDOZ
Secretary, Department of Labor and Employment
Chairman, National Wages and Productivity Commission

Dept. of Labor & Employment
Office of the Secretary



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