

Republic of the Philippines
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Regional Board No. IV
WAGE ORDER NO. IV - 08
SETTING THE NEW MINIMUM WAGE IN THE REGION

WHEREAS, the Regional Tripartite Wages and Productivity Board (RTWPB) is mandated by law to rationalize wage fixing in the Region taking into account the prevailing economic condition affecting the cost of living of wage earners, the sustainable viability of business and industry, and the interest of labor and management;

WHEREAS, consistent with the policy of providing workers with safety net protection against unduly low wages, the Board recognizes the need to review the current minimum wage levels;

WHEREAS, on August 13, 2001, Labor Solidarity Movement (LSM) representing TUCP, LACC and APL filed a petition for a seventy-one peso (P 71.00) per day wage increase across the board region wide;

WHEREAS, in response to this petition consultation meeting with Palawan TIPC was conducted in Puerto Princesa on September 11, 2001. Three (3) separate public hearings were also held: 1) on October 19, 2001 in Batangas City, covering the areas of Batangas province, Mindoro Oriental and Occidental and Romblon; 2) on October 23, 2001 in Lucena City, covering the areas of Quezon Province and Marinduque; and 3) on October 30, 2001 in Calamba City, covering the areas of Laguna, Cavite, Rizal and Aurora.

WHEREAS, the spatial configuration of the Region is marked by heterogeneity with areas classified as:

a. Extended Metropolitan Area or highly urbanized and industrialized areas in the Region geographically contiguous to Metro Manila and whose development approximates that of the National Capital Region;

b. Growth Corridor Area or rapidly urbanizing and industrializing parts of the Region strategically located near Metro Manila;

c. Emerging Growth Area or areas with predominantly rural/agricultural resource potential located at/or near the rapidly urbanizing and industrializing parts of the Region and the large Metro Manila markets; and

d. Resource Based Area with predominantly rural/agricultural resource potential far from regional and Metro Manila markets;

WHEREAS, this issuance is rational, consistent and progressive within the context of existing economic and social environment;

NOW, therefore by virtue of the power and authority vested under Republic Act No. 6727, known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Region IV hereby issues this Wage Order:

SECTION 1. AMOUNT OF INCREASE. The amount of increase effective February 15, 2002 are as follows:

1) Extended Metropolitan Area	P20.00
2) Growth Corridor Area	P10.00
3) Emerging Growth Area	P 8.00
4) Resource Based Area	P 8.00

NEW MINIMUM WAGE: The daily minimum wage(s) of workers in the Region upon effectivity of this Order shall be:

AREA	SECTOR				
	NON-AGRI CULTURE	AGRICULTURE		COTTAGE & MICRO-ENTER	RETAIL & SERVICE ESTABS Employing not more than 10 workers
		PLAN-TATION	NON-PLAN-TATION		
EXTENDED METROPOLITAN AREA					
CAVITE: Bacoor, Cavite City, Dasmariñas, GMA, Imus, Rosario, Carmona, Gen. Trias	237.00	212.00	192.00	200.00	130.00
RIZAL: Antipolo, Cainta, Rodriguez, Tanay, Taytay	237.00	212.00	192.00	200.00	130.00
LAGUNA: Binan, Cabuyao, Calamba, Los Baños, San Pablo City, San Pedro, Sta. Cruz, Sta. Rosa	237.00	212.00	192.00	200.00	130.00
GROWTH CORRIDOR AREA					
CAVITE: Indang, Kawit, Naic, Tanza, Ternate, Noveleta, Silang, Tagaytay City, Trece Martires	220.00	195.00	175.00	183.00	117.00
RIZAL: Angono, Binangonan, Pililia, San Mateo	220.00	195.00	175.00	183.00	117.00
LAGUNA: Paete, Pakil	220.00	195.00	175.00	183.00	117.00
BATANGAS: Balayan, Batangas City, Bauan, Calaca, Lemery, Lipa City, Nasugbu, San Juan, San Pascual, Sto. Tomas, Tanauan	220.00	195.00	175.00	183.00	117.00
QUEZON: Candelaria, Lucena City, Sariaya, Tiaong	220.00	195.00	175.00	183.00	117.00
EMERGING GROWTH AREA					
CAVITE: Alfonso	214.00	189.00	169.00	177.00	113.00
RIZAL: Cardona, Morong, Teresa	214.00	189.00	169.00	177.00	113.00
LAGUNA: Alaminos, Bay, Calauan, Cavinti, Kalayaan, Liliw, Luisiana, Lumban, Mabitac, Majayjay, Nagcarlan, Pagsanjan, Pangil, Pila, Rizal, Siniloan, Sta. Maria, Victoria	214.00	189.00	169.00	177.00	113.00
BATANGAS: Calatagan, Cuenca, Ibaan, Lian, Mabini, Padre Garcia, Rosario, Taal, Tingloy, Tuy, San Jose, Taysan	214.00	189.00	169.00	177.00	113.00
QUEZON: Atimonan, Calauag, Guinayangan, Gumaca, Infanta, Lukban, Mauban, Mulanay, Pagbilao, Real, Tagkawayan, Tayabas, Lopez	196.00	176.00	156.00	164.00	106.00
MARINDUQUE: Sta. Cruz	196.00	176.00	156.00	164.00	106.00
OCC. MINDORO: San Jose	196.00	176.00	156.00	164.00	106.00
OR. MINDORO: Calapan	196.00	176.00	156.00	164.00	106.00
PALAWAN: Puerto Princesa City	196.00	176.00	156.00	164.00	106.00
RESOURCE BASED AREA					
CAVITE: Amadeo, Gen. Aguinaldo, Magallanes, Maragondon, Mendez-Nunez	210.00	185.00	165.00	173.00	111.00
RIZAL: Baras, Jala-Jala	210.00	185.00	165.00	173.00	111.00
LAGUNA: Famy, Magdalena	210.00	185.00	165.00	173.00	111.00
BATANGAS: Agoncillo, Alitagtag, Balete, Laurel, Lobo, Malvar, Mataas na Kahoy, San Luis, San Nicolas, Sta. Teresita, Talisay	210.00	185.00	165.00	173.00	111.00
QUEZON: Agdangan, Alabat, Buenavista, Burdeos, Catanauan, Dolores, Gen. Nakar, Jomalig, Macalelon, Padre Burgos, Panukulan, Patnanungan, Perez, Pitogo, Plaridel, Polilio, Quezon, Sampaloc, San Andres, San Antonio, San Francisco, San Narciso, Unisan, Gen. Luna	192.00	172.00	152.00	160.00	104.00

MARINDUQUE: Buenavista, Boac, Gasan, Mogpog, Torrijos	182.00	167.00	147.00	155.00	104.00
OCC. MINDORO: Calintaan, Looc, Lubang, Magsaysay, Paluan, Rizal, Sablayan, Abra de Ilog, Mamburao, Sta. Cruz	182.00	167.00	147.00	155.00	104.00
OR. MINDORO: Baco, Gloria, Mansalay, Pola, Puerto Galera, Roxas, San Teodoro, Socorro, Victoria, Bansud, Bongabong, Bulalacao, Naujan, Pinamalayan	182.00	167.00	147.00	155.00	104.00
PALAWAN: Aborlan, Agutaya, Araceli, Balabac, Busuanga, Cagayancillo, Culion, Cuyo, Dumaran, El Nido, G. Abordo, Magsaysay, Narra, Quezon, Rizal, Roxas, San Vicente, Taytay, Bataraza, Brooke's Point, Coron	182.00	167.00	147.00	155.00	104.00
ROMBLON: Alcantara, Banton, Cajiocan, Calatrava, Concepcion, Corcuera, Ferrol, Looc, Magdiwang, Odiangan, Romblon, San Agustin, San Andres, San Fernando, San Jose, Sta. Fe, Sta. Maria	182.00	167.00	147.00	155.00	104.00
AURORA: Casiguran, Dilasag, Dinalungan, Dingalain, Dipaculao, Maria Aurora, San Luis, Baler	182.00	167.00	147.00	155.00	104.00

All workers covered by this Wage Order receiving less than the prescribed minimum wage(s) shall be adjusted at least to the new daily minimum wage rates prescribed herein.

SECTION 2. ON COVERAGE. The minimum wage rates prescribed under this Order shall apply to all covered employees in the private sector in the Region regardless of their position, designation or status and irrespective of the method by which their wages are paid, except household or domestic helpers, family drivers and persons in the personal service of another.

SECTION 3. BASIS OF MINIMUM WAGE. The minimum wage prescribed under this Order shall be for the normal working hours, which shall not exceed eight hours work a day.

SECTION 4. APPLICATION TO WORKERS PAID BY RESULTS. All workers paid by result, including those who are paid on piece work, takay, pakyaw or task basis, shall be entitled to receive the prescribed minimum wage rates for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for working less than the normal working hours.

SECTION 5. APPLICATION TO SPECIAL GROUPS OF WORKERS. Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in this Order.

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

SECTION 6. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, implementation of the Wage Order shall be deferred until tuition fees are increased but such deferment shall not be for more than one school year.

SECTION 7. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates for covered workers shall be borne by the principals or clients of the construction /service contractor and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed minimum wage rates, the construction/service contractor shall be jointly and severally liable with the principal or client.

SECTION 8. APPLICATION TO EXPORTERS .For establishments in the Export Industry which earn at least fifty percent (50%) of its normal operating revenues from export sales and whose product pricing is computed using labor costs based on previous mandated minimum wage rates, the effectivity of minimum wage rates under this Order shall be deferred but shall not be for a period of more than one year.

Allowable length of period of deferment grant shall be based on the weighted value or volume of each specific contract with the time and/or expected time of receipt of payment of each specific contract in proportion to the total contract value or volume for a one-year period plus thirty day payment lag.

In the case of establishments eligible for deferment, a written internal agreement on the manner of deferment as agreed between employers and employees shall take precedence over any guidelines

specified in the Order and its Implementing Rules provided said agreed deferment does not exceed one year.

SECTION 9 . APPLICATION TO TRANSFERS, MOBILE OR MULTISITE EMPLOYEES. In cases where the establishment may have branches or multiple sites in different parts of the region or where its headquarters is outside the region , the applicable rate is the rate of the particular city / municipality where the employee is based . In cases of mobile employees, the home base rate shall apply. In cases of transfer from a high rate city/ municipality to a lower rate city / municipality, the higher rate shall continue to be applied.

SECTION 10. EXEMPTION. Upon application with and as determined by the Regional Board in accordance with the applicable rules and regulations, distressed establishments as defined in the NWPC Guidelines No.01, Series of 1996 (Rules on Exemption) may be exempted. All application for exemption from this Order shall filed within seventy five (75) days from date of publication of the Rules Implementing this Order.

The Regional Board has the option to grant full or partial exemption as warranted.

Whenever an application for exemption has been filed with the Regional Board, action by the Regional Office of the Department of Labor and Employment on any complaint for alleged non-compliance with this Order shall be deferred pending resolution of the application for exemption by the Regional Board.

In the event that an application for exemption is not granted, covered workers and employees shall receive the appropriate compensation due them as provided for in this Order plus interest of one percent (1%) per month retroactive to the effectivity of this Order.

SECTION 11 . EFFECT OF APPLICATION FOR EXEMPTION. An application for exemption duly filed shall have the effect of deferring any action on any complaint for non-compliance with the Order until resolution of the application by the Regional Board.

In case the application for exemption is not approved, covered employees/workers of the applicant-establishment shall be paid the mandated wage/COLA increase under this Order plus one (1) percent simple interest per month retroactive to the effectivity of this Order.

SECTION 12. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of this Order.

SECTION 13. EFFECT OF FILING 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 the corresponding increase to employees affected by the Order in the event such Order is affirmed.

SECTION 14. CREDITABILITY PROVISIO. All forms of basic wage and/or salary increases, regardless of nature, provided they bring the actual wage and/or salary to the new minimum wage rates and provided further the resultant are equal to or greater than the minimum wage rates established under this Order are deemed creditable.

Where said increases are less than the prescribed minimum wage rates in the Order, the employer shall pay the difference.

SECTION 15. EFFECTS ON EXISTING WAGE STRUCTURE. Wage/salary distortions and/or severe compression that may result as a consequence of this Order shall be addressed through mutual agreement by the employer and its employees or their representative unions.

Advisory formulae to correct distortions or severe compression are annexed to this Order as possible alternatives for the parties to consider. (Annex A).

The annexed formulae are neither compulsory nor mandatory in nature and any other agreement the parties may adopt shall take precedence to these formulae.

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

Disputes that may arise as a result of this Order shall be resolved in accordance with Article 124 of the Labor Code as amended.

SECTION 16. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be subject of enforcement proceedings under Article 128 of the Labor code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

SECTION 17. NON-DIMINUTION OF BENEFITS. Nothing in this order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

SECTION 18. PENAL PROVISIONS. Any employer who refuses or fails to pay the corresponding rates provided under this Order shall be subject to the penalties under R.A 6727 as amended by R.A. 8188.

SECTION 19. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceeding before the Board

SECTION 20. 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 21. 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, 2003 and every year thereafter in accordance with the form prescribed by the Commission.

SECTION 22. REPEALING CLAUSE. All laws, orders, issuances, rules and regulations, or parts thereof inconsistent with this Wage Order are hereby repealed, amended, or modified accordingly.

SECTION 23. SEPARABILITY CLAUSE. If for any reason, any section or provision of this Order is declared unconstitutional or invalid, the other provisions or parts shall remain valid.

SECTION 24. IMPLEMENTING RULES. The Regional Board shall prepare the necessary rules and regulations to implement this Order, subject to the approval of the Secretary of Labor and Employment.

SECTION 25. EFFECTIVITY. This Order shall take effect on February 15, 2002 after its publication in at least one newspaper of general circulation in the Region.

Approved this 20th day of November 2001 in Diliman, Quezon City.

(Sgd) **ATTY. RICARDO S. MARTINEZ, Sr. CESO III**
Chairman

(Sgd) **MARILOU Q. TOLEDO**
Vice-Chairman

(Sgd) **OSKAR D. BALBASTRO**
Vice-Chairman

(Sgd) **BENJAMIN P. BASQUIÑAS,
JR.**
Worker Representative

(Sgd) **JUANITO S. FACUNDO**
Worker Representative

EMMA N. BUENAVENTURA
Employer Representative

(Sgd) **RENATO B. ALMEDA**
Employer Representative

ADVISORY DISTORTION FORMULAE

The advisory distortion formulae are as follows:

$$1) \quad DA = DMWA \times \left(\frac{DMW}{DCW} \right)^n$$

where

DA = Distortion Adjustment

DMWA = Daily Minimum Wage Adjustment (WO#8)

DMW = Daily Minimum Wage (WO#7)

DCW = Daily Current Wage

n = Distortion Exponent Factor where n may be any number greater than 0

$$2) \quad DA = DMWA - \left[\left(\frac{DCW - DMW}{CO - DMW} \right) \times DMWA \right]$$

where

DA = Distortion Adjustment

DMWA = Daily Minimum Wage Adjustment (WO#8)

DMW = Daily Minimum Wage (WO#7)

DCW = Daily Current Wage

CO = Cut - off Amount of Inclusion and Exclusion

Republic of the Philippines
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Regional Board No. IV
RULES IMPLEMENTING WAGE ORDER NO. IV-08

Pursuant to the authority granted to the Regional Tripartite Wages and Productivity Board under the Revised Rules of Procedure on Minimum Wage Fixing, the following rules are hereby issued for the guidance and compliance by all concerned:

RULE 1 - GENERAL PROVISIONS

SECTION 1. TITLE. This Rules shall be known as " Rules Implementing Wage Order No. IV-08;

SECTION 2. DEFINITION OF TERMS. As used in this Rules,

(a) "Order" means Wage Order No. IV - 08;

(b) "Board" means the Regional Tripartite Wages and Productivity Board of Region IV;

(c) "Commission" means the National Wages and Productivity Commission;

(d) "Department" means the Department of Labor and Employment;

(e) "Region IV" covers the provinces of Aurora, Batangas, Cavite, Laguna, Marinduque, Occidental Mindoro, Oriental Mindoro, Palawan, Quezon, Rizal and Romblon and the cities of Batangas, Cavite, Lipa, Lucena, Puerto Princesa, San Pablo, Tagaytay, Trece Martirez, Antipolo, Calapan and Calamba;

(f) "Extended Metropolitan Area" covers the municipalities of Bacoor, Dasmariñas, GMA, Imus, Rosario, Gen. Trias, Carmona and Cavite City in Cavite; Antipolo City, Cainta, Rodriguez, Tanay and Taytay in Rizal; Binan, Cabuyao, Calamba City, Los Banos, San Pedro, Sta. Cruz and Sta. Rosa and San Pablo City in Laguna;

(g) "Growth Corridor Area" covers the municipalities of Indang, Kawit, Naic, Noveleta, Silang, Tanza, Ternate, Trece Martires and Tagaytay City in Cavite; the municipalities of Angono, Binangonan, Pililia and San Mateo in Rizal; the municipalities of Paete and Pakil in Laguna; the municipalities of Balayan, Bauan, Calaca, Lemery, Nasugbu, San Juan, San Pascual, Sto. Tomas and Tanauan and the cities of Batangas and Lipa in Batangas; the municipalities of Candelaria, Sariaya and Tiaong and Lucena City in Quezon;

(h) "Emerging Growth Area" covers the municipalities of: Alfonso in Cavite; Cardona, Morong and Teresa in Rizal; Alaminos, Bay, Calauan, Cavinti, Kalayaan, Liliw, Luisiana, Lumban, Mabitac, Majayjay, Nagcarlan, Pagsanjan, Pangil, Pila, Rizal, Siniloan, Sta. Maria and Victoria in Laguna; Calatagan, Cuenca, Ibaan, Lian, Mabini, Padre Garcia, Rosario, Taal, Tingloy, Tuy, San Jose and Taysan in Batangas; Atimonan, Calauag, Guinayangan, Gumaca, Infanta, Lukban, Mauban, Mulanay, Pagbilao, Real, Tagkawayan, Tayabas and Lopez in Quezon; Sta. Cruz in Marinduque; San Jose in Occ. Mindoro; Calapan City in Or. Mindoro; and the city of Puerto Princesa in Palawan;

(i) "Resource Based Area" covers the provinces of Aurora, Romblon and the remaining parts of Cavite, Rizal, Laguna, Batangas, Quezon, Marinduque, Occ. Mindoro, Or. Mindoro and Palawan;

(j) "Minimum Wage Rates" refer to the minimum wage rate(s), as fixed by the Board, that an employer is obliged to pay his workers.

(k) "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 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;

(l) "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than twenty four (24) hectares in a locality or which employs at least twenty (20) workers. Any other agricultural enterprise shall be considered as "Non-Plantation Agricultural Enterprise";

(m) "Cottage and Micro Enterprises" refer to business activities or enterprises engaged in industry, agribusiness and/or services whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value of above P150,000.00 to P1,500,00.00 for Cottage Enterprises and P150,000.00 and below for Micro Enterprises;

(n) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;

(o) "Service Establishment" is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such;

(p) "Exporter" means any person, natural or juridical, licensed to do business in the Philippines, engaged directly or indirectly in the manufacture or trade of products or services which earn at least fifty percent (50%) of its normal operating revenues from the sale of its products or services abroad for foreign currency. In the case of indirect exporters, the requirement that products or services be sold "abroad for foreign currency" shall not apply as, by the very nature of their business, the sale of their products or services takes place in the Philippines and such indirect exporters are usually paid in Philippines currency.

(q) "Transfers" refer to those workers or employees affected by the movement of personnel from the head office to a branch office or from one branch office to another in an equivalent rank or level without break in service;

(r) "Mobile or multisites employees" refer to those employees who, by the nature of their work, have to travel from one branch or another and regularly perform their duties away from the principal place of business or branch office of the employer.

RULE 2 - NEW MINIMUM WAGE RATES

SECTION 1. AMOUNT OF INCREASE. The amount of increase effective February 15, 2002 are as follows:

- | | | |
|----|-----------------------------|--------|
| 1) | Extended Metropolitan Areas | P20.00 |
| 2) | Growth Corridor Area | P10.00 |
| 3) | Emerging Growth Area | P 8.00 |
| 4) | Resource Based Area | P 8.00 |

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MARINDUQUE: Buenavista, Boac, Gasan, Mogpog, Torrijos	182.00	167.00	147.00	155.00	104.00
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OR. MINDORO: Baco, Gloria, Mansalay, Pola, Puerto Galera, Roxas, San Teodoro, Socorro, Victoria, Bansud, Bongabong, Bulalacao, Naujan, Pinamalayan	182.00	167.00	147.00	155.00	104.00
PALAWAN: Aborlan, Agutaya, Araceli, Balabac, Busuanga, Cagayancillo, Culion, Cuyo, Dumaran, El Nido, G. Abordo, Magsaysay, Narra, Quezon, Rizal, Roxas, San Vicente, Taytay, Bataraza, Brooke's Point, Coron	182.00	167.00	147.00	155.00	104.00
ROMBLON: Alcantara, Banton, Cajiocan, Calatrava, Concepcion, Corcuera, Ferrol, Looc, Magdiwang, Odiangan, Romblon, San Agustin, San Andres, San Fernando, San Jose, Sta. Fe, Sta. Maria	182.00	167.00	147.00	155.00	104.00
AURORA: Casiguran, Dilasag, Dinalungan, Dingalain, Dipaculao, Maria Aurora, San Luis, Baler	182.00	167.00	147.00	155.00	104.00

All workers covered by the Order receiving less than the prescribed minimum wage(s) shall be adjusted at least to the new daily minimum wage rates prescribed herein.

SECTION 2. COVERAGE. The minimum wage rates prescribed under the Order shall apply to all covered employees in the private sector in the Region regardless of their position, designation or status, and irrespective of the method by which their wages are paid, except household or domestic helpers, including family drivers and persons in the personal service of another;

SECTION 3. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight hours work a day.

SECTION 4. APPLICATION TO 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 applicable minimum wage rates prescribed under the Order for the normal working hours which shall not exceed eight hours work a day, or a proportion thereof for work or less than the normal working hours.

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

$$\begin{array}{lcl}
 \text{a) } \frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}} & \times & 100 = \% \text{ increase;} \\
 \text{b) Existing rate/piece} & \times & \% \text{ increase} = \text{Increase in rate/piece;} \\
 \text{c) Existing rate/piece} & + & \text{Increase in rate/} \\
 & & \text{piece} = \text{Adjusted rate/piece}
 \end{array}$$

where AMW is the applicable minimum wage rate.

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

SECTION 5. APPLICATION TO SPECIAL GROUPS OF WORKERS. Wages of apprentices and learners shall in no case be less than 75 percent of the applicable minimum wage rates prescribed in the Order.

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

Where said increase are less than the prescribed minimum wage rates provided in the Order and this Rules, the employer shall pay the difference.

SECTION 6. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of covered workers and employees in the increase of tuition fees, implementation of the Wage Order shall be deferred until tuition fees are increased but such deferment shall not be for more than one school year.

SECTION 7. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed minimum wage rates for covered workers shall be borne by the principals or clients of the construction/service contractor and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed minimum wage rates, the construction/service contractor shall be jointly and severally liable with the principal or client.

SECTION 8. APPLICATION TO EXPORTERS. Establishments in the export industry which earn at least fifty percent (50%) of its normal operating revenues from export sales and whose product pricing is computed using labor costs based on previous mandated rates, the effectivity of the minimum wage rates under the Order shall be deferred but shall not be for a period of more than one year.

These conditions shall be verified based on predominant and accepted documents used in the industry that should show applicant entered into contracts before **February 15, 2002**, but that these contracts shall be concluded, that is, produced and delivered, and consequently paid for between the periods February 15, 2002 to February 14, 2003.

Allowable length of period of deferment grant shall be based on the weighted value or volume of each specific contract with the time and/or expected time of receipt of payment of each specific contract in proportion to the total contract value or volume for a one year period plus a thirty day payment lag.

In the case of establishments eligible for deferment, a written internal agreement on the manner of deferment as agreed between employers and employees shall take precedence over any guidelines specified in the Order and this Implementing Rules provided said agreed deferment does not exceed one year.

For purposes of representation, the incumbent bargaining union in the case of organized enterprises or the representatives of choice signed by majority of the employees in the case of non-unionized enterprises shall represent the employees in the said agreement.

This internal agreement, however, has no automatic application but subject to the basic requirements of a deferment application.

Requirements of a deferment application are as follows:

1. Application letter under oath with attendant information on the firm's principal economic activity, amount of total assets, date of start of operation, the regular number and names of workers with their corresponding salaries and wages and dates of employment.

2. Proof of notice of filing of 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 application to all workers in the establishment. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place.

3. Supporting Documents as follows:

- 3.1 For Direct Exporters

- a. Proof of 50% Export Sales Status

b. Contracts with Foreign Buyers/s entered into before February 15, 2002, but for production, delivery and subsequent payment between the periods February 15, 2002 to February 14, 2003.

c. Invoices, Bills of Lading, Confirmed Inward Letters of Credit, Lading Certificate and other Commercial documents with reference to the contracts described in 3.1b.

3.2 For Indirect Exporters

a. Certification from Consignee/s that export products consigned were in fact sold by consignee/s.

b. Proof of 50% Export Sale Status of Consignee/s

c. Contracts with Consignee/s entered into before February 15, 2002 but for production, delivery and subsequent payment between the period February 15, 2002 to February 14, 2003.

d. Purchase Orders, Invoices, Receipts and other Commercial Documents with reference to contracts described in 3.2c.

3.3 For Exporters (Direct or Indirect) and workers who decide to agree on the length of deferment.

a. In the case of Direct Exporters, proof of 50% Export Sale Status. In the case of indirect exporters, certification from Consignee/s and proof of 50% Export Sale Status of Consignee/s.

b. Written internal agreement under oath between the employers and employees the length of period of deferment.

Deferment application shall be filed not later than seventy-five (75) days from the publication of this Rules. The date of mailing shall be the date of filing.

Whenever an application for deferment has been filed with the Regional Board, action by the Regional Office of the Department of Labor and Employment on any complaint for alleged non-compliance with the Order shall be deferred pending resolution of the application for deferment by the Regional Board.

In the event that an application for deferment is not granted or is fully granted, covered workers and employees shall receive the appropriate compensation due them as provided for in the Order plus interest of one percent (1%) per month retroactive to the effectivity of the said Order or from the period not covered by the grant of deferment, whichever is applicable.

An aggrieved party may file with the Board a motion for reconsideration of the decision on the application for deferment within ten (10) calendar 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 otherwise appealed to the Commission.

SECTION 9. APPLICATION TO TRANSFERS, MOBILE OR MULTISITE EMPLOYEES. The minimum wage rates of mobile or multisite workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head office of the employer. For those workers working in branches or agencies of establishments in or outside the Region, the minimum wage rates shall be those applicable in the place where they are stationed or based.

The transfer of personnel from a high rate city/municipality to a lower rate city/municipality shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. Workers transferred from a lower rate municipality to a higher rate municipality shall be entitled to the minimum wage rates applicable therein. For this purpose, the transfer shall be permanent in nature and/or for a continuous period exceeding fifteen (15) working days, otherwise, the worker shall continue to receive the old rate

SECTION 10. EXEMPTION. Upon application with and as determined by the Regional Board in accordance with the applicable rules and regulations, distressed establishments as defined in the NWPC Guidelines No. 01, Series of 1996 (Rules on Exemption) may be exempted from compliance with the Order.

Requirements of exemption applications are as follows:

1. Application letter under oath with attendant information on the firm's principal economic activity, amount of total assets, date of start of operation, the regular number and names of workers with their corresponding salaries and wages and dates of employment.

2. Proof of notice of filing of 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 application to all workers in the establishment. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place.

3. Supporting documents are as follows:

3.1 Audited Financial statements together with the Auditor's Opinion and the notes thereto for the last two full accounting periods (2000-2001) filed with and stamped "received" by the Securities and Exchange Commission and the Bureau of Internal Revenue:

3.2 Audited interim quarterly financial statements together with Auditor's Opinion and the notes thereto for the period immediately preceding the effectivity of the Order.

Application for exemption shall be filed not later than seventy-five (75) days from the publication of this Rules. The date of mailing shall be the date of filing..

SECTION 11. 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 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 12. APPEAL TO THE COMMISSION. Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. 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 13. 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.

SECTION 14. CREDITABLE WAGE INCREASE. All forms of basic wage and/or salary increases, regardless of nature, provided they bring the actual wage and/or salary to the new minimum wage rates and provided further the resultant is equal to or greater than the minimum wage rates established under the Order and this Rules are deemed creditable.

Where said increases are less than the prescribed minimum wage rates in this Order, the employer shall pay the difference.

SECTION 15. EFFECTS ON EXISTING WAGE STRUCTURE. Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the 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 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 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 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 rising from wage distortion shall not in any way delay the applicability of any increase prescribed in the Order.

Advisory formulae to correct distortions or severe compression is annexed to the Order as possible alternative for the parties to consider. The annexed formulae is neither compulsory nor mandatory in nature and any other agreement the parties may adopt shall take precedence to this formulae.

SECTION 16. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

SECTION 17. NON-DIMINUTION OF BENEFITS. Nothing in the Order and in this Rules shall be construed to reduce and 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 18. PENAL PROVISION. Pursuant to 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 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 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 managers, managing director or partner.

The employer/s 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.

SECTION 19. PROHIBITION AGAINST INJUNCTION. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against and proceedings before the Commission or boards.

SECTION 20. 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 21. 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, 2003 and every year thereafter in accordance with the form prescribed by the Commission.

SECTION 22. REPEALING CLAUSE. All laws, orders issuances, rules and regulations on wages, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

SECTION 23. 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 reminder of the

Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

SECTION 24. SUGGESTED FORMULAE 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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 391.50 \text{ days}}{12}$$

Where 391.50 days:

302 days	- Ordinary working days
18 days	- 9 regular holidays x 200%
2.6 days	- 1 regular holiday falling on last Sunday of August x 200% + (30% of 200%)
66.30 days	- 51 rest days x 130%
<u>2.60 days</u>	- 2 special days x 130%
391.50 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:

302 days	- Ordinary working days
51 days	- Rest days
10 days	- Regular Holidays
<u>2 days</u>	- Special days
365	Total equivalent number of days in a year

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

$$\text{EMR} = \frac{\text{ADR} \times 314.6 \text{ days}}{12}$$

Where:

302 days	- Ordinary working days
10 days	- Regular Holidays
<u>2.6 days</u>	- 2 Special days (if worked) x 130%
314.6 days	- Total equivalent number of days in a year

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

$$\text{EMR} = \frac{\text{ADR} \times 262.6 \text{ days}}{12}$$

Where:

250 days	- Ordinary working days
10 days	- Regular Holidays
<u>2.6 days</u>	- 2 Special days (if worked) x 130%
262.6 days	- Total equivalent number of days in a year

Note: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them, is included in the ten regular holidays.

For workers whose rest days does not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

SECTION 25. EFFECTIVITY. This Rules shall take effect on February 15, 2002

Done this 7th day of December 2001. Calamba, Laguna, Philippines

(Sgd) **ATTY. RICARDO S. MARTINEZ, Sr., CESO III**
Chairman

(Sgd) **MARILOU Q. TOLEDO**
Vice-Chairman

(Sgd) **OSKAR D. BALBASTRO**
Vice-Chairman

(Sgd) **BENJAMIN P. BASQUIÑAS, JR.**
Worker Representative

(Sgd) **JUANITO S. FACUNDO**
Worker Representative

Resigned
EMMA N. BUENAVENTURA
Employer Representative

(Sgd) **RENATO B. ALMEDA**
Employer Representative

Approved this 1st day of April 2002
subject to the notation contained on page 12, hereof

(Sgd) **PATRICIA A. STO. TOMAS**
Secretary of Labor and Employment

NOTATION TO THE RULES IMPLEMENTING WAGE ORDER NO. IV-08

Section 14, Rule 1 should be revised to read as follows:

"All forms of basic wage and/or salary increases, regardless of nature, are deemed creditable unless provided otherwise in collective bargaining agreement and provided the actual wage and/or salary is equal to or greater than the minimum wage rate established under this Order.

Where said increases are less than the prescribed minimum wage rates in this Order, the employer shall pay the difference."