

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
REGION III – CENTRAL LUZON

**RULES IMPLEMENTING WAGE ORDER
NO. RBIII-22**

Pursuant to Section 6, Rule IV of NWPC Guidelines No. 01, Series of 2007, otherwise known as the Amended Rules of Procedure on Minimum Wage Fixing and Section 22 of Wage Order No. RBIII-22, the following rules are hereby issued for the guidance and compliance by all concerned:

**RULE I
GENERAL PROVISIONS**

Section 1. TITLE. These Rules shall be known as the “**Rules Implementing Wage Order No. RBIII-22**”

Section 2. DEFINITION OF TERMS. The following terms, as used in these Rules, shall mean:

- Mingua*
- a) “**Agriculture**” refers to farming in all its branches including the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activities performed by a farmer or on a farm as an incident to or in connection with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products.
 - b) “**Barangay Micro Business Enterprises (BMBEs)**” refers to any business entity or enterprise granted with a Certificate of Authority under Republic Act No. 9178, otherwise known as an “Act to promote the Establishment of Barangay Micro Business Enterprises (BMBEs), Providing Incentives and Benefits Therefore, and for Other Purposes, as amended by Republic Act 10644, otherwise known as the “Go Negosyo Act of 2014”.
 - c) “**Basic Wage**” refers to 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, investments, premium payments, 13th month pay and other monetary benefits, which are not considered as part of or integrated into the regular salary of the workers.
 - d) “**Board**” refers to the Regional Tripartite Wages and Productivity Board Region III.
 - e) “**Capital**” refers to paid-up capital at the end of the full accounting period in the case of corporations, or total invested capital at the beginning of the period under review in the case of a partnership or single proprietorship.
- R*

- f) **"Commission"** refers to the National Wages and Productivity Commission (NWPC).
- g) **"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.
- h) **"Cooperative"** refers to a duly registered association of persons who voluntarily join together to form a business establishment which they themselves own, control and patronize and which may fall under any of the following types: credit, consumers, producers, marketing, service or multi-purpose.
- i) **"Deficit"** refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, dividend distributions, prior period adjustments and other capital adjustments.
- j) **"Disaster"** refers to a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources; an actual threat to public health and safety where the local government and emergency services are unable to meet the immediate needs of the community; an event in which the local emergency management measures are insufficient to cope with a hazard, whether due to lack of time, capacity or resources, resulting in unacceptable level of damage or number of casualties.
- k) **"Distressed Establishment"** refers to an establishment which meets the criteria enumerated in Section 3 (A) of NWPC Guidelines No. 02, Series of 2007 or the Amended Rules on Exemption.
- l) **"Establishment"** refers to an economic unit which 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 separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.
- m) **"Financial Statement"** refers to written report which quantitatively describes the financial health of a company. This includes the following: balance sheet, income statement, statement of changes in equity, cash flow statement and notes to financial statement.
- n) **"Full Accounting Period"** refers to a period of twelve (12) months or one (1) year of business operations.
- o) **"Hazard"** refers to a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood or services, social and economic disruption, or environmental damage; any potential threat to public safety and/or public health; any phenomenon which is 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.

- p) **"Interim Period"** refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year).
- q) **"Net Loss"** refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues.
- r) **"Non-Agriculture Enterprise"** refers to all other activities not falling under "agriculture", "retail" and "service" as defined herein.
- s) **"Non-Plantation Agricultural Enterprise"** refers to all other agricultural enterprises not falling under "plantation agricultural enterprise" as defined herein.
- t) **"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.
- u) **"Order"** refers to Wage Order No. RBIII-22.
- v) **"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 the exercise of a profession.
- w) **"Plantation Agricultural Enterprise"** refers to 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.
- x) **"Quasi-bank"** refers to an institution such as investment house and financing company performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.
- y) **"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 that has become final involving acts or transactions which amount to fraud or dissipation of the assets of the institution.
- z) **"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.
- aa) **"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.
- bb) **"Single Entry Approach (SEnA)"** refers to an administrative approach to provide a speedy, impartial, inexpensive, and accessible settlement procedure of all labor issues or conflicts to prevent them from ripening into full blown disputes.

- cc) **“Single Proprietorship”** refers to a business unit owned and controlled by only one person.
- dd) **“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 a natural or human-induced hazard.
- ee) **“Stock Corporation”** refers to one organized for profit and that issues shares of stock to its members.
- ff) **“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.
- gg) **“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.
- hh) **“Under Corporate Rehabilitation”** refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction.
- ii) **“Wage Distortion”** refers to a situation where an increase in the prescribed wage rates results in either of the following: (1) elimination of the quantitative differences in the rates of wages or salaries; (2) 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.

RULE II AMOUNT OF INCREASE

Section 1. AMOUNT OF INCREASE. Upon the effectivity of Wage Order No. RBIII-22, the basic wage of all private sector workers in the provinces of Aurora, Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac, and Zambales shall be adjusted by **TWENTY PESOS (Php20.00)** per day.

The new daily minimum wage rates of covered workers in the private sector in Central Luzon shall be as follows:

SECTOR/INDUSTRY	Wage Order No. RBIII-22					
	Provinces of Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac and Zambales			Province of Aurora		
	MW under W.O. No. RBIII-21	Wage Increase	New Minimum Wage	MW under W.O. No. RBIII-21	Wage Increase	New Minimum Wage
Non-Agriculture						
Establishments with 10 or more workers	400	20	420	349	20	369
Establishments with less than 10 workers	393	20	413			
Agriculture						
Plantation	370	20	390	334	20	354
Non-Plantation	354	20	374	322	20	342
Retail / Service						
Establishments with 10 or more workers	389	20	409	284	20	304
Establishments with less than 10 workers	375	20	395			

Section 2. COVERAGE. The new daily minimum wage rates shall apply to all minimum wage earners in the private sector in Region III regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid.

Section 3. BASIS OF MINIMUM WAGE. The 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 4. NON-APPLICABILITY TO BARANGAY MICRO BUSINESS ENTERPRISES. The new daily minimum wage rates shall not apply to workers of registered Barangay Micro Business Enterprises (BMBEs) with Certificate of Authority issued pursuant to Republic Act No. 10644.

Section 5. APPLICABILITY TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, the share of workers and employees covered in the increase in tuition and other fees for School Year 2019-2020 shall be credited as compliance with the Order. In case of any shortfall, the employer shall pay the difference starting School Year 2020-2021.

Private educational institutions which have not increased their tuition and other fees for School Year 2019-2020 may defer compliance with the provisions of the Order until the beginning of School Year 2020-2021.

In any case, all private educational institutions shall implement the new minimum wage rates prescribed in the Order starting School Year 2020-2021.

Section 6. APPLICABILITY TO CONTRACTORS AND SUBCONTRACTORS. In the case of contractors and subcontractors for construction projects and for security, janitorial and similar services, the prescribed wage increase of the workers shall be borne by the principal or clients of the contractors and their contracts shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage increase, the contractor shall be jointly and severally liable with its principal or client.

Section 7. WORKERS PAID BY RESULT. All covered workers paid by results, including those who are paid on piecework, "takay", "pakyaw", or task basis, shall receive not less than the prescribed wage increase 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 results shall be computed in accordance with the following steps:

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

$$\frac{20}{400} \times 100 = 5\%$$

b.
$$\text{Existing rate/piece} \times \frac{(\% \text{ increase})}{100} = \text{Increase in rate/piece}$$

c.
$$\text{Existing rate/piece} + \text{Increase in rate/piece} = \text{Adjusted rate/piece}$$

*Where AMW is the Applicable Minimum Wage rate

The wage rate for workers who are paid by result shall continue to be established in accordance with Article 101 of the Labor Code of the Philippines, as amended, and its Implementing Rules and Regulations

Section 8. WAGE FOR SPECIAL GROUPS OF WORKERS. The minimum wage rate of apprentices and learners shall in no case be less than seventy-five percent (75%) of the prescribed minimum wage rate in the Order.

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

Section 9. MOBILE AND BRANCH WORKERS. The minimum wage rates of workers, who by nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

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

Section 10. TRANSFER OF PERSONNEL. The transfer of personnel to areas outside Region III shall not be a valid ground for the reduction of the prescribed minimum wage rates being enjoyed by the workers prior to such transfer. The workers transferred to other regions with higher minimum wage rates shall be entitled to the minimum wage rates applicable therein.

Section 11. APPEAL TO THE COMMISSION. Any party aggrieved by the Order may file an appeal to the Commission through the Board within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) 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 12. EFFECT OF THE APPEAL. The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

RULE III EXEMPTIONS

Section 1. WHO MAY BE EXEMPTED. Upon application with and as determined by the Board based on documentation and other requirements submitted in accordance with the applicable rules and regulations, the following establishments may be exempted from the applicability of the Order:

- a) Distressed establishments
- b) Establishments adversely affected by natural calamities such as natural and/or human-induced disasters

Section 2. CRITERIA FOR EXEMPTION. The following criteria shall be used to determine if the applicant-establishment is qualified for exemption:

A. Distressed Establishments

- 1. For Corporations/Cooperatives

a. Full Exemption

- a.1. When the deficit, as defined in Section 2(i), Rule I, as of the last full accounting period immediately preceding the effectivity of the Order amounts to 20 percent (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 defined in Section 2(i), Rule I, as of the last full accounting period immediately preceding the effectivity of the Order amounts to at least 10 percent (10%) but less than 20 percent (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 percent (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 percent (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 percent (10%) but less than 20 percent (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 percent (25%) of 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 percent (20%) or more of the fund balance/members' contribution at the beginning of the period; or

a.2. When the establishment registers a 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 percent (10%) but not more than 20 percent (20%) of the fund balance/members' contribution at the beginning of the 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 percent (25%) of the 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 (BSP) that it is under receivership or liquidation as provided in Section 30 of Republic Act 7653, otherwise known as the New Central Bank Act.

b. Under Controllorship/Conservatorship

A bank or quasi-bank under controllorship/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 pursuant to the Rules of Procedure on Corporate Rehabilitation.

B. Establishment Adversely Affected by Calamities e.g. Natural and Human-Induced Disasters

1. The establishment must be located in an area declared by a competent authority as under a state of calamity.

2. The calamity must have occurred within six (6) months prior to the effectivity of this Order. However, if based on the assessment by a competent authority, the damage to properties is at least 50 percent (50%) and the period of recovery will exceed one (1) year, the six-month period may be extended to one (1) year.

3. Losses suffered by the establishments as a result of the calamity that exceed the insurance coverage should amount to 20 percent (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.
4. Only losses or damaged to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.
5. Where necessary, the Board or its duly authorized representatives shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

Section 3. DOCUMENTS REQUIRED. The following supporting documents shall be submitted together with the application:

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. 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 conspicuous places in the establishment for at least five (5) working days before filing of petition for exemption.

Proof of posting and proof of compliance from the previous wage order (i.e. payroll duly signed by the workers and/or inspection results issued by the DOLE Regional Office).

Certificate of registration as a business enterprise from the appropriate government agency/ies (e.g. Securities and Exchange Commission (SEC) registration for corporations, partnerships or associations; Cooperative Development Authority (CDA) registration for cooperatives; Department of Trade and Industry (DTI) business name registration for sole proprietorships).

A. For Distressed Establishments

1. *For Corporations, Cooperatives, Single Proprietorships, Partnerships, Non-stock, Non-profit Organizations*

a. Full or Partial Exemption

a.1. Affidavit from the employer stating the principal economic activity, number of workers employed in the establishment and union (if any).

a.2. 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 agency.

b. Conditional Exemption

b.1. Affidavit from the employer stating the principal economic activity, number of workers employed in the establishment and union (if any).

b.2. To confirm the grant of conditional exemption, audited financial statements for the last full accounting period, stamped received by the appropriate government agency to be submitted within thirty (30) days from the lapse of the one (1) year exemption period.

2. *For Banks and Quasi-banks*

a. Affidavit from the employer stating the principal economic activity, number of workers employed in the establishment and union (if any).

b. Certification from the Bangko Sentral ng Pilipinas (BSP) that it is under receivership/ liquidation.

3. *For Establishments Under Corporate Rehabilitation*

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

B. For Establishments Adversely Affected by Calamities

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

- a. Date and type of calamity;
- b. Amount of losses/damages suffered as a direct result of the calamity;
- c. List of properties damaged/lost together with the estimated valuation; and
- d. For properties that are not insured, a statement that the same are not covered by insurance.

2. Copies of the Insurance Policy Contracts covering the Properties damaged, if any.

3. Adjuster's report for insured properties

4. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped "received" by the appropriate government agency

In case of severe damage to properties caused by calamity, a Certification by the Barangay and pictures of the damaged property/ies may be submitted in lieu of the audited financial statements.

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

Section 4. EXTENT AND DURATION OF EXEMPTION. The Board may grant the following exemptions:

- A. Full exemption of one (1) year from the effectivity of the Order shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3A of NWPC Guidelines No. 02, Series of 2007.
- B. Partial exemption of 50 percent (50%) from effectivity of the Order with respect to the amount or period of exemption shall be granted only in the case of distressed establishments under Section 3A of NWPC Guidelines No. 02, Series of 2007.
- C. Conditional exemption of one (1) year from effectivity of the Order shall be granted only in the case of distressed establishments under Section 3A of NWPC Guidelines No. 02, Series of 2007. The conditional exemption shall be confirmed as follows:
 1. *For Corporations.* When the deficit as defined in these Rules, as of the last full accounting period amounts to 20 percent (20%) or more of the paid-up capital for the same period;
 2. *For Single Proprietorships and Partnerships.* When the net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20 percent (20%) or more of the total invested capital at the beginning of the period under review;
 3. *For Non-Stock, Non-Profit Organizations.* When the net loss for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20 percent (20%) or more of the fund balance/members' contribution at the beginning of the period.

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

Section 5. ADOPTION OF PRODUCTIVITY IMPROVEMENT PROGRAMS. Establishments granted exemption are required to adopt productivity improvement initiatives or schemes to improve business viability. The Commission and the Board shall provide technical assistance in the development of productivity improvement program in the establishment.

Section 6. EFFECT OF APPLICATION FOR EXEMPTION. When an application for exemption is filed, the Board shall duly notify the DOLE Regional or Field Office. Pending resolution of the application for exemption, action on any complaint for alleged non-compliance with the Order shall be deferred by the DOLE Regional or Field Office.

Section 7. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION. In the event that the application for exemption is not approved, affected workers shall be paid the prescribed wage increase as provided for in the Order plus one percent (1%) simple interest per month retroactive to the effectivity of the Order.

Section 8. 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 9. DISTRESSED PRINCIPAL. Exemption granted to a distressed principal shall not extend to its contractor in case of contract(s) for construction, security, janitorial and/or similar services with respect to the employees of the latter assigned to the former.

Section 10. PROCEDURE ON EXEMPTION. The following procedure shall be observed:

A. For Filing of Application for Exemption

1. The owner/manager or duly authorized representative of an establishment may file an application for exemption with the Board, in three (3) legible copies, in person or by registered mail.

The date of mailing shall be deemed as the date of filing.

Applications for exemption filed with the DOLE Regional or Field Offices are considered filed with the Board.

2. Applications for all categories shall be filed not later than seventy-five (75) days from publication of the approved implementing rules of the Order, provided that all the required documents in support of the application must be filed within the said 75-day filing period and that no further extension of filing and submission of required documents shall be allowed.
3. The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 4 of NWPC Guidelines 02, Series of 2007.



B. For Filing of Opposition

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

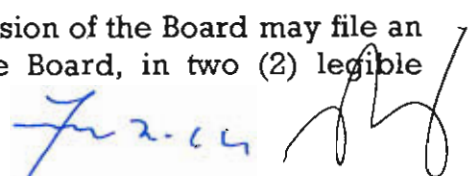
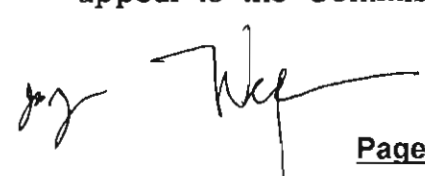
C. For Filing a Motion for Reconsideration

The aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.

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

D. For Filing of Appeal to the Commission

1. *Appeal.* Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two (2) legible



copies, not later than ten (10) days from date of receipt of the decision.

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

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

2. *Grounds for Appeal.* An appeal may be filed on any of 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; or
 - c. Questions of law.
3. *Opposition.* The appellee may file with the Board his reply or opposition to the appeal within ten (10) days from receipt of the appeal. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.
4. *Transmittal of Records.* Within five (5) days upon receipt of the reply or opposition of the appellee or after the expiration of the period to file the same, the entire records of the case which shall be consecutively numbered and shall be transmitted by the Board to the Commission.

RULE IV CREDITABLE INCREASE

Section 1. CREDITABLE INCREASE. Increases granted by employers within ninety (90) days prior to the effectivity of the Order shall be credited as compliance with the same. Increases outside this period shall be credited only if an agreement to this effect has been forged between the employer and employees or if there is a collective bargaining agreement provision which allows the crediting of such wage increases. In case the increase is less than what is provided in the Order, the employer shall pay the difference.

Such increases shall not include CBA anniversary wage increases, merit wage increases and those resulting from the regularization or promotion of employee, unless there is an agreement expressly allowing such crediting.

RULE V WAGE DISTORTION

Section 1. EFFECT ON EXISTING WAGE STRUCTURE. Pursuant to Article 124 of the Labor Code of the Philippines, as amended, the employer and the union shall, in any dispute arising out of a significant wage distortion, negotiate to correct the distortion through the grievance procedure under their Collective Bargaining Agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board (NCMB) and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

The following advisory formula may be used to correct wage distortion:

$$\begin{array}{l} \text{Minimum Wage under} \\ \text{Wage Order No. RBIII-21} \\ \text{Present Salary} \end{array} \quad \times \quad \begin{array}{l} \text{Amount of} \\ \text{increase in} \\ \text{WO RBIII-22} \end{array} \quad = \quad \begin{array}{l} \text{Amount of} \\ \text{increase due} \\ \text{to distortion} \end{array}$$

The formula is neither compulsory nor mandatory. Any other agreement the parties may adopt shall take precedence to this formula.

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

RULE VI SPECIAL PROVISIONS

Section 1. PRODUCTIVITY AND OTHER PERFORMANCE-BASED INCENTIVE SCHEME. In order to sustain rising levels of wages and enhance competitiveness, labor and management are encouraged to adopt productivity improvement schemes e.g. time and motion studies, good housekeeping, quality circles, labor-management cooperation and to implement gainsharing and other performance incentive programs. The Board shall guide private establishments in the formulation, adoption and implementation of productivity improvement programs and performance and productivity-based incentive schemes that they may provide based on agreement between workers and management.

Section 2. ADVISORY ON PERFORMANCE-BASED INCENTIVE PAY. Advisory No. RTWPB III-01, Series of 2013, issued by the Board on performance-based incentive scheme shall serve as guide for private establishment on the productivity incentives that it may provide based on agreement between workers and management.

Section 3. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with the Order shall be filed with the DOLE Regional Office or Field Office having jurisdiction over the workplace and shall be subject to the mandatory thirty (30) day conciliation and mediation process under Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Articles 128 and 129 of the Labor Code of the Philippines, as amended.

Section 4. NON-DIMINUTION OF BENEFITS. Nothing in the Order and in these Rules shall be construed to reduce any existing wage rates, allowances, and benefits of any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and the employers.

Section 5. PENAL PROVISION. Pursuant to the provisions of Section 12 of Republic Act 6727, as amended by Republic Act 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed wage adjustments 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 or 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 responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner, of the entity.

Section 6. 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 7. FREEDOM TO NEGOTIATE. The Order shall not be construed to prevent workers in particular firms or enterprises of industries from negotiating for higher wages with their respective employers.

Section 8. REPORTING REQUIREMENTS. Any person, company, corporation, partnership, or any entities engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31st of each year and every year thereafter in accordance with the form prescribed by the Commission.

Section 9. REPEALING CLAUSE. All orders, rules, and regulations on wages, or parts thereof inconsistent with the provisions of the Order and these Rules are hereby repealed, amended or modified accordingly.

Section 10. SEPARABILITY CLAUSE. If any provision or part of the Order and these Rules, or the application thereof to any person or circumstances is held invalid or unconstitutional, the remainder of the Order and these Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

Section 11. EFFECTIVITY. These Rules shall take effect upon the effectivity of Wage Order No. RBIII-22.


APPROVED this 24th day of January 2020, City of San Fernando, Pampanga.

FLORDELIZA MARIA REYES-RAYEL
Member
Employers' Representative


MARCO D. NEPOMUCENO
Member
Employers' Representative

RAUL C. REMODO
Member
Workers' Representative

EDGAR B. VENTURA
Member
Workers' Representative


LEON M. DACANAY, JR.
NEDA Regional Director
Vice Chairperson


JUDITH P. ANGELES
DTI Regional Director
Vice Chairperson


MA. ZENAIDA A. ANGARA-CAMPITA
DOLE Regional Director
Chairperson

APPROVED this 20th day of February, 2020.


SILVESTRE S. BELLO III
Secretary
Department of Labor and Employment

Dept. of Labor & Employment
Office of the Secretary



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