

**NWPC GUIDELINES NO. 03
Series of 2020**

OMNIBUS RULES ON MINIMUM WAGE DETERMINATION

Pursuant to Article 121(c) of the Labor Code, as amended by Section 3 of Republic Act No. 6727 (Wage Rationalization Act), and in relation to Section 24 of Republic Act No. 10361 (Batas Kasambahay) and Section 2, Rule IV of its Implementing Rules and Regulations, the National Wages and Productivity Commission hereby adopts and promulgates this Omnibus Rules on Minimum Wage Determination, incorporating herein the provisions of: NWPC Guidelines No. 01, Series of 2007; NWPC Guidelines No. 02, Series of 2007; NWPC Resolution No. 01, Series of 2014 (Inclusion of Calamity as an Exemptible Category); NWPC Guidelines No. 01, Series of 2014 (Rules of Procedure on Minimum Wage Fixing for Domestic Workers); Resolution No. 02, Series of 2015 (Posting of Notice of Public Hearing); Resolution No. 05, Series of 2015 (Affirmative Votes of Majority of Members); NWPC Resolution No. 01, Series of 2018 (Incorporation of the Implementing Rules in the Wage Order); NWPC Guidelines No. 01, Series of 2020 (Internal Guidelines on the Conduct of Tele or Videoconference During Commission Meetings); Resolution No. 02, Series of 2020 (Amending Certain Provisions of Resolution No. 01, Series of 2007 and Resolution No. 01, Series of 2014 on the Category of Calamity such as Natural and Human-Induced Disasters) and other relevant policies, rules and regulations.

**RULE I
GENERAL PROVISIONS**

Section 1. Title. This Rules shall be known as the "Omnibus Rules on Minimum Wage Determination."

Section 2. Declaration of Policy. The objective of the minimum wage policy is to protect vulnerable workers from undue low wages.

The Boards shall adjust minimum wage rates in a fair and equitable manner considering existing regional disparities in the cost of living, other socio-economic factors, and national economic and social development plans.

To ensure compliance with minimum wages and for ease of enforcement and implementation of Wage Orders, the Boards shall simplify minimum wage structures.

Section 3. Construction. This Rules shall be liberally construed to carry out the policy intent and objectives of the Wage Rationalization Act and the Batas Kasambahay.

Section 4. Scope and Coverage. This Rules shall govern proceedings in the Commission and the Boards in all matters related to minimum wage determination both for domestic workers and workers in private establishments.


Barangay Micro Business Enterprises (BMBEs) registered pursuant to Republic Act No. 9178, as amended by Republic Act No. 10644 (Go Negosyo Act of 2014) and its implementing rules, which have been issued a valid Certificate of Authority by the Department of Trade and Industry, through the Negosyo Center in the city or municipal level, are not covered by the Minimum Wage Law; provided, that all



employees covered by such exemption shall be entitled to the same benefits given to any regular employee, such as social security and healthcare benefits.

Section 5. Definition of Terms. As used in this Rules, the following terms shall mean:

- a. **Board** - the Regional Tripartite Wages and Productivity Board;
- b. **Barangay Micro Business Enterprise (BMBE)** - any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, shall not be more than Three Million Pesos (P3,000,000.00);¹
- c. **Certificate of Authority** - the certificate issued granting authority to the registered BMBE to operate and be entitled to the benefits and privileges under Republic Act No. 9178 or the "Barangay Micro Business Enterprises Act of 2002".² The Department of Trade and Industry, through the Negosyo Center in the city or municipal level, shall have the sole power to issue the Certificate of Authority for BMBEs renewable every two (2) years;³
- d. **Chairperson** - Chairperson of the Commission or the Board;
- e. **Commission** - the National Wages and Productivity Commission or NWPC;
- f. **Consultation** – a process of formally consulting, discussing or seeking information or advice from concerned stakeholders on matters relating to wages, incomes and productivity;
- g. **Disaster** - 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. Disasters are often described as a result of the combination of: the exposure to a hazard; the conditions of vulnerability that are present; and insufficient capacity or measures to reduce or cope with the potential negative consequences. Disaster impacts may include loss of life, injury, disease and other negative effects on human, physical, mental and social well-being, together with damage to property, destruction of assets, loss of services, social and economic disruption and environmental degradation;⁴
- h. **Domestic Worker** - any person engaged in domestic work within an employment relationship such as, but not limited to, the following: general househelp, nursemaid or "yaya", cook, gardener or laundry person, but shall exclude any person who performs domestic work occasionally or sporadically and not on an occupational basis, and children under foster family arrangement;


¹ Implementing Rules of Republic Act No. 9178, Item I, Sec. 2(b)

² Republic Act No. 9178, Sec. 3(b)

³ Republic Act No. 10644, Sec. 5(b)

⁴ Republic Act No. 10121, Sec. 3(h)

- i. **Establishment** – a recognizable economic unit under a single ownership or control, i.e., under a single legal entity, which engages in one or predominantly one kind of economic activity at a single physical location;⁵
- j. **Industry** - the set of all production units engaged primarily in the same or similar kinds of productive economic activity;⁶
- k. **Legitimate Labor Organization** – any labor organization duly registered with the Department of Labor and Employment, and includes any branch or local thereof;⁷
- l. **Locality** - a geographical area smaller than a province and includes industrial estates or export processing zones;
- m. **Member** - the members of the Commission or Board, including its Chairperson;
- n. **Public Hearing** - a process wherein the Board engages the public in a discussion on wages and incomes as well as other wage-related issues, and where evidence and testimonies are received and heard to thresh out petitions for wage increase, if any, or otherwise to determine if wage adjustment is necessary;
- o. **Region** - a geographical area composed of a group of provinces and/or cities as defined under Presidential Decree No. 1, as amended, including those that may be subsequently established by law;
- p. **Regional Minimum Wage Rate** - the lowest wage rate that an employer should pay his workers, as fixed by the Board and which shall in no case be lower than the applicable statutory minimum wage rate as may be fixed by Congress;
- q. **Retail Establishment** - an entity principally engaged in the sale of goods to end-users for personal or household use;
- r. **Service Establishment** - an entity principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such;
- s. **State of Calamity** - a condition involving mass casualty and/or major damages to property, disruption of means of livelihoods, roads and normal way of life of people in the affected areas as a result of the occurrence of natural or human-induced hazard;⁸
- t. **Statutory Minimum Wage** - the lowest wage rate fixed by law that an employer can pay his workers; and
- u. **Wage Order** - the Order issued by the Board pursuant to its minimum wage determination function for workers in private establishments and for domestic workers.

⁵ 2009 Philippine Standard Industrial Classification, Technical Notes (under item 3-a)

⁶ *Ibid.*, Technical Notes (under item 1)

⁷ Labor Code, Art. 212 (h)

⁸ Republic Act No. 10121, Sec. 3(II)

RULE II MINIMUM WAGE DETERMINATION

Section 1. Conduct of Wage and Productivity Studies. The Board shall conduct continuing studies on wages, productivity, and socio-economic conditions in the region. The Board shall investigate and study all pertinent facts, and, based on standards/criteria prescribed under this Rules, shall determine whether a Wage Order shall be issued.

The Board may request the assistance and cooperation of any government agency or private person or organization to provide information in aid of its minimum wage determination function.

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

A. For Workers in Private Establishments

1. The demand for living wages;
2. Wage adjustment vis-à-vis the consumer price index;
3. The cost of living and changes or increases therein;
4. The needs of workers and their families;
5. The need to induce industries to invest in the countryside;
6. Improvements in standards of living;
7. The prevailing wage levels;
8. Fair return of the capital invested and capacity to pay of employers;
9. Effects on employment generation and family income; and
10. The equitable distribution of income and wealth along the imperatives of economic and social development.

B. For Domestic Workers

1. Needs of workers and their families;
2. Wage adjustments vis-à-vis the consumer price index;
3. Poverty threshold;
4. Household income; and
5. Average wage of domestic workers.

Section 3. Commencement of Minimum Wage Determination. Within sixty (60) days before the anniversary date of the Wage Order, the Board may commence the process of minimum wage determination through any of the following:

A. *Motu proprio* by the Board. Whenever conditions in the region so warrant, the Board may, *motu proprio*, initiate action or inquiry to determine whether a Wage Order shall be issued.

B. *By Virtue of a Petition.*

1. **Form and Content.** Any party may file a verified petition for wage increase in person, by mail, or by electronic filing through the official



email address of the Board, and which shall contain the following:

- (a) Name, address and contact information (i.e. telephone/mobile number, email address) of the petitioner. If a labor organization or association, petitioner must include a copy of its registration, and signature of authorized official;
- (b) Grounds relied upon to justify the increase being sought;
- (c) Amount of wage increase being sought; and
- (d) Area and/or industry covered.

If a petition for wage increase is filed earlier than 60 days prior to the anniversary of the Wage Order, the Board shall proceed to determine if there exist urgent and reasonable grounds to issue a Wage Order within the 12-month period, pursuant to the 2nd paragraph of Section 3, Rule IV.

2. **Action of the Board.** Within five (5) working days from receipt of a petition for wage increase, the Board Secretariat shall communicate to the petitioner any non-compliance with the formal requirements under this Rules. The petitioner must submit any lacking requirement within five (5) working days from receipt of such notice of non-compliance, otherwise, the same shall constitute ground for dismissal of the petition.
3. **Consolidation of Petitions.** If there is more than one petition for wage increase filed, the Board may, *motu proprio* or on motion of any party, issue a Resolution of Consolidation (Annex "A"), copy furnished the petitioners, for purposes of conducting joint hearings or proceedings to expedite resolution of petitions.

The Board shall then proceed with the publication and posting of notice of public hearing pursuant to Sec. 3(B), Rule III hereof.

Petitions for wage increase received after publication as aforementioned need not go through the publication or posting requirement, but the same shall be posted in the website of the Board and be presented during public hearing.

The Resolution on consolidated petitions for wage increase is final and non-appealable.

4. **Opposition.** Any party may file an opposition to the petition for wage increase with the appropriate Board before the date of initial hearing, copy furnished the petitioner/s, and shall contain the following:
 - (a) Name, address and contact information (i.e. telephone/mobile number, email address) of the opposing party. If an employer organization or association, oppositor must include a copy of its registration, and signature of authorized official;
 - (b) Reasons or grounds for the opposition; and
 - (c) Relief being sought.

Immediately upon receipt of an opposition, the Board shall inform the oppositor of any non-compliance with the formal requirements as herein mentioned.



RULE III CONSULTATION AND PUBLIC HEARING

Section 1. Conduct of Consultation and Public Hearing. The Boards shall endeavor to conduct all its consultations and public hearings physically. However, where a community quarantine is imposed by appropriate government authority in their respective jurisdictions or when there is a calamity as declared by the appropriate government authority, and when physical or face-to-face meeting is not feasible for some or all members of the Board, consultations and public hearings may be conducted through the use of tele/videoconferencing technology.

The conduct of consultation and public hearing shall be subject to the rules on quorum, and such quorum requirement shall be maintained until adjournment of meeting or proceeding.

The Board shall hold a number of consultations and public hearings, be it physically, virtually or blended, as it may deem necessary. Blended means a setup where some may convene physically or face-to-face while others may join through an online collaboration platform.

Section 2. Consultation. Prior to the issuance of a Wage Order, the Board may conduct consultation/s with specific groups such as employees or employers' groups; industry associations; provincial, city and municipal officials; concerned government agencies or other interested parties.

A. Invitation and Attendance to Consultation. An invitation for the conduct of consultation, specifying the date, place, time and purpose, shall be sent by the Board Secretariat to concerned organizations, stakeholders or interest groups through e-mail or other modes of communication. A consultation may be conducted through a simple meeting discussion.

Upon receipt of invitation, the concerned organizations, stakeholders or interest groups shall confirm their attendance to the meeting by replying to the aforementioned e-mail, through text messaging, or any written response to the Secretariat.

In case the consultation will be conducted fully or partially through tele or videoconferencing, the Board shall invite a manageable number of participants to ensure an orderly and participative flow of discussion amongst all attendees. The invitation shall also indicate the online platform to be used, and only organizations, stakeholders or interest groups that have confirmed attendance shall be provided access and instructions to join the meeting.

Section 3. Public Hearings. The Board shall conduct public hearings to determine the propriety of issuance of a new Wage Order, regardless of whether a petition for wage increase is filed. The hearing shall be attended to by, if possible, representatives of all concerned organizations, stakeholders, and interest groups, and shall be conducted in a manner that those who stand to be directly affected by the Board's action are given the widest opportunity to be heard.

Public hearings may be conducted 60 days prior to the anniversary date of the current Wage Order.



In case the public hearing will be conducted fully or partially through tele or videoconferencing, the Board shall accommodate as many participants as possible, but shall ensure that all parties are given the opportunity to be heard.

- A. Period to Conduct Public Hearings.** All hearings shall be concluded within forty-five (45) days from the date of initial hearing, except when conditions in the region require a longer period.
- B. Notice and Attendance to Public Hearings.** The Board shall cause the publication of the notice of public hearing (*Annex "B"*) in a newspaper of general circulation in the region containing the date/s, place and time of public hearing/s, as well as contact information of the Board. Said notice shall also be posted in at least three (3) public places in the region and in the website of the Board. The Board may also cause the airing of notice with local radio and television stations, and posting in its social media accounts. The publication and posting shall be made at least fifteen (15) days before the initial hearing.

In case there is a petition for wage increase filed with the Board, the notice of public hearing shall include the name and address of petitioner, and the subject of petition (*Annex "C"*).

The notice shall also indicate the number of days within which any party may submit a position paper, based on the Board's schedule or timeline to issue a Wage Order, within the prescribed number of days for the conduct of public hearing and deliberation.

The Secretariat may also notify organizations, stakeholders or interest groups through e-mail or other modes of communications. In case the public hearing will be conducted fully or partially through tele or videoconferencing, the notice shall also indicate the online platform to be used, and only organizations, stakeholders or interest groups that have confirmed attendance shall be provided access and instructions to join the proceeding. (*Annex "D" and "E" attached for Notice of virtual public hearings of with and without petitions filed, respectively*)

- C. Procedure in the Conduct of Public Hearing.** The Board shall adopt the following procedure in the conduct of its public hearings:
1. The Chairperson shall call the public hearing to order and instruct the Secretariat to acknowledge the presence of quorum and attendees.
 2. The Chairperson shall make a preliminary statement to apprise the attendees of the purpose/s of the public hearing such as to: thresh out petition/s for wage increase filed; assess the socio-economic condition in the region; gather relevant data and information prior to the issuance of a Wage Order; and such other purposes for which a public hearing is required or necessary.
 3. The Chairperson may call the Vice-Chairpersons (NEDA and DTI), or any resource person, to apprise the public on the latest socio-economic condition of the region and other relevant statistics, information or official data on wages and incomes.



4. The Chairperson shall have control and supervision of the hearing, and shall provide ample time to the attendees to express their views, opinions, or comments on the subject matter of discussion, including calling upon petitioners and their witnesses to present their views and evidence, and allowing oppositors the equal opportunity to be heard.
5. The Chairperson or any other member of the Board shall refrain from giving personal views, opinions or comments, but may seek clarification of issues or data.
6. The Chairperson shall conclude the hearing and shall advise the attendees that they may submit position papers or written comments based on the Board's schedule or timeline to issue a Wage Order, within the prescribed number of days for the conduct of public hearing and deliberation.

Section 4. Responsibilities of the Secretariat. To have an effective and efficient consultation and public hearing, the Secretariat shall have the following duties and responsibilities:

- A. Prepare the invitation and notice for the conduct of consultation and public hearing, respectively, and ensure that the same are properly communicated to concerned parties;
- B. Ensure the participation and presence of quorum of the members of the Board, as well as the attendance of all concerned organizations, stakeholders or interest groups;
- C. Take note of the proceedings and keep a record of the same;
- D. Prepare the summary and minutes of consultations and public hearings; and
- E. Provide overall assistance and technical support in the conduct of consultation and public hearing.

In case the consultation and public hearing will be conducted through tele or videoconferencing, the Secretariat shall further assume the following duties and responsibilities:

- A. Determine the need for some or all members of the Board to convene physically to facilitate the virtual consultation and public hearing, subject to other existing and appropriate guidelines of the government;
- B. Determine the digital platform to be used;
- C. Ensure that attendees have access to the digital platform at least a day before the scheduled consultation and public hearing;
- D. Conduct a short briefing on virtual meeting mechanics at the start of consultation and public hearing, and announce that the proceedings shall be recorded;
- E. Launch the digital platform and ensure that attendees are able to hear and see the other participants clearly during the course of consultation and public hearing;
- F. Take a picture or screenshot of all the attendees with their videos turned on at the start and at the end of consultation and public hearing for purposes of documentation;
- G. Assist the Chairperson in facilitating the consultation and public hearing, such as management of attendees' turn to speak, facilitating the use of comment or chat boxes of the digital platform used, among others; and



- H. Ensure that except for the Chairperson, the microphones of all attendees are "turned-off" or put on "mute" mode when not speaking, for clear and orderly flow of discussion and to avoid background noise and distraction.

Section 5. Airing of Virtual Consultation and Public Hearing. The consultation or public hearing may be aired or live streamed in any social media account of the Board, and/or in local radio and television stations, subject to the provisions of the Data Privacy Act of 2012 and other pertinent laws.

Section 6. Submission of Position Papers or Written Comments. Position papers or written comments may still be submitted after the public hearing within a period specified by the Board based on its schedule or timeline to issue a Wage Order, within the prescribed number of days for the conduct of public hearing and deliberation.

The Secretariat may ask for submission of preliminary comments relative to the subject of consultation or public hearing, which shall form part of the documentation of the consultation or public hearing.

All pre and post submission of aforementioned papers may be done through the official e-mail address as indicated in the website of the Board and/or in the published notice.

RULE IV WAGE ORDER

Section 1. Issuance of Wage Order. The Board shall, within thirty (30) days from the date of the last public hearing, resolve the merits of the petitions for wage increase or determine whether a Wage Order should be issued. Where appropriate, the Board shall issue a Wage Order establishing the new minimum wage rate which shall in no case be lower than the prevailing minimum wage rate in the region.

The Wage Order shall be signed by all members of the Board who participated in the wage deliberation. Members may manifest their concurrence or dissent beside their signature in the Wage Order, and may submit their explanation in a separate sheet of paper.

The Board shall then furnish the Commission a copy of the resolution on the petition/s for wage increase or a copy of the Wage Order, as the case may be. The Board shall also provide the Commission Secretariat a copy of the newspaper where the notice of public hearing and petition/s for wage increase were published. Further, the Board Secretary shall issue a certification (*Annex "F"*), attested to by the Chairperson, that such notice had been posted in at least three (3) public places in the region.

Section 2. Contents of Wage Order. A Wage Order shall specify the wage increase/s in the region. Such new minimum wage rates should not result to any diminution of 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.

A Wage Order shall further contain a set of general and specific provisions. A template for the guidance of the Boards is herein attached as *Annex "G"*. The Boards may modify some provisions in the template, including the "Whereas" clauses, as may



be necessary and appropriate.

For ease of enforcement and compliance, the Board shall simplify wage levels considering the socio-economic conditions in the region.

Section 3. Frequency of Issuance of Wage Order. No new Wage Order may be issued within a period of twelve (12) months from effectivity of the current Wage Order. The Board shall conduct continuous review of socio-economic conditions in the region and hold consultations as necessary. Public hearings may be conducted 60 days prior to the anniversary date of the current Wage Order pursuant to Sec. 3, Rule III hereof.

Should the Board find urgent and reasonable grounds to issue a Wage Order within the 12-month period, it shall submit a written justification to the Commission for its immediate review and affirmation. Once affirmed by the Commission, the Board may initiate the minimum wage setting process.

Section 4. Review of Wage Order. The Commission shall review regional wage levels set by the Board to determine if these are in accordance with prescribed guidelines and national development plans.

After deliberation, the Commission shall issue a decision sheet (*Annex "H"*) on the result of its review.

Section 5. Publication and Effectivity. After the Wage Order has been reviewed by the Commission, the Board may now cause its publication. A Wage Order shall take effect after fifteen (15) days from its publication in at least one (1) newspaper of general circulation in the region.

The Board shall furnish the Commission Secretariat a copy of the Wage Order as published.

Section 6. Motion for Reconsideration. A Wage Order is not subject to a Motion for Reconsideration but may be appealed to the Commission within ten (10) days from the date of its publication pursuant to Rule V of this Guidelines.

RULE V APPEAL ON THE WAGE ORDER

Section 1. Appeal to the Commission. An appeal may be taken from a Wage Order issued by the Board by filing a verified memorandum of appeal to the Commission within a non-extendible period of ten (10) days from the date of publication of the Wage Order, stating the ground relied upon, the arguments in support thereof, and the relief being sought. Such appeal may be filed in person, by mail, or by electronic filing through the official email address of the Board.

For purposes of this Rules, a party shall mean any individual or a legitimate organization or association of workers/employers in the region, province, or industry therein, as determined by the Board, and who stands to be directly affected by the Commission or Board proceedings, orders, or resolutions.



Section 2. Ground for Appeal. An appeal may be filed on the ground of grave abuse of discretion on the part of the Board for committing serious error in the application of law and non-compliance with prescribed guidelines and/or procedures.

Section 3. Transmittal of Records. Immediately upon receipt of the Board of the appeal, the entire records of the case shall be transmitted to the Commission. The Commission shall then issue a notice of filing of appeal (*Annex "I"*).

Section 4. Comment of the Issuing Board. The issuing Board shall submit its comment on the appeal within ten (10) working days from the date of receipt of notice from the Commission.

Section 5. Effect of Appeal and Filing of Bond. The filing of appeal does not operate to stay the implementation of a Wage Order. If the appeal includes a prayer for suspension of payment of wage increase, the appellant shall file with the Commission an undertaking with a surety or sureties for the payment to the employees affected by the Wage Order of the corresponding increase, in the event such Wage Order is affirmed by the Commission. Such surety company must be duly accredited by the Supreme Court of the Philippines.

The amount of surety or sureties to be filed by the appellant shall be determined by the Commission, considering the magnitude of affected workers and the amount of increase provided in the subject Wage Order.

Section 6. Grounds for Dismissal. The appeal may be dismissed outright on the following grounds:

- A. Failure to take the appeal within the reglementary period;
- B. Failure to file required bond, if applicable;
- C. Failure to file a verified memorandum of appeal; or
- D. Lack of legal standing of the filing party.

Section 7. Period to Act on Appeal. The Commission shall resolve the appeal within sixty (60) calendar days from the filing thereof.

Section 8. Motion for Reconsideration. The aggrieved party may file a motion for reconsideration of the resolution of the Commission within fifteen (15) days from notice thereof, with proof of service on the adverse party.

Section 9. Finality of the Resolution. If no motion for reconsideration is filed by the aggrieved party, the resolution of the Commission shall become final and executory after fifteen (15) days from receipt of the same.

Section 10. Entry of Judgment. After the Resolution of the Commission has attained finality, an Entry of Judgment shall be issued.

Section 11. Effect of Filing of Petition for Certiorari. The filing of Petition for Certiorari under Rule 65 of the Rules of Court before the Court of Appeals shall not stay the implementation of the Wage Order.



RULE VI WAGE DISTORTION

(For Wage Order of workers in private establishments)

Section 1. Existence of Wage Distortion. Wage distortion exists where the application of any prescribed wage increase by virtue of a law or 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 basis of differentiation.

Section 2. Elements of Wage Distortion. Wage distortion exists when the following elements are present:

- A. Existing hierarchy of positions with corresponding salary rates;
- B. A significant change in the salary rates of a lower pay class without a concomitant increase in the salary rate of a higher one;
- C. The elimination of the distinction between the two (2) levels; and
- D. The existence of the distortion in the same region.

Section 3. Correction of Wage Distortion. Where the application of any prescribed wage increase by virtue of a Wage Order issued by the Board results in distortions of the wage structure within an establishment, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved through the grievance procedure under their collective bargaining agreement, and, if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board, and, if it remains unresolved after ten (10) days of conciliation, shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). It shall be mandatory for the NLRC to conduct continuous hearings and decide the dispute within twenty (20) days from the time said dispute is submitted for compulsory arbitration. The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of any increase in prescribed wage rates pursuant to the provisions of the Wage Order.

The parties may use the suggested formula for correcting wage distortion salary adjustment provided under the NWPC Manual on Wage Distortion.

RULE VII EXEMPTION FOR WORKERS IN PRIVATE ESTABLISHMENTS

Section 1. Exemptible Categories. The following establishments may apply for exemption from compliance with the present Wage Order:

- A. Retail/Service Establishments regularly employing not more than ten (10) workers; and
- B. Establishments adversely affected by natural calamities and/or 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. For a retail/service establishment regularly employing not more than ten (10) workers, exemption may be granted if it is engaged in the retail sale of goods and/or services to end users for personal or household use.

For purposes of this rule, regular shall mean that an establishment is employing not more than 10 workers for an aggregate of at least six (6) months in a calendar year.

- B. For an establishment adversely affected by natural calamity and/or human-induced disaster, the following criteria must be present:

1. The establishment must be located in an area covered by a Declaration of State of Calamity issued pursuant to Section 16 of Republic Act No. 10121 or the Philippine Disaster Risk Reduction and Management Act of 2010; and
2. The calamity must have occurred within six (6) months prior to the effectivity of the Wage Order. Where the calamity occurred during the life of the Wage Order, establishments may still apply for exemption but only with respect to tranches that are yet to be implemented, if any.

Section 3. Documents Required. The following supporting documents shall be submitted together with the application:

- A. **For a retail/service establishment regularly employing not more than ten (10) workers:**

1. An affidavit of undertaking (*Annex "J"*) of the employer stating the following:
 - (a) Number of its employees and the duration of their employment;
 - (b) The fact that it notified its workers of its action to apply for exemption from payment of wage increase;
 - (c) The fact that it is compliant with the previous Wage Order; and
 - (d) That in case the application is not granted, the employees shall receive the appropriate increase due them plus interest of one per cent (1%) per month retroactive to the effectivity of the Wage Order.
2. Certified true copy of the business permit for the current year issued by the concerned Local Government Unit.

- B. **For an establishment adversely affected by a calamity:**

1. An affidavit of undertaking (*Annex "K"*) of the owner, general manager or chief executive officer stating the following:
 - (a) Amount of losses/damages suffered;
 - (b) List of properties damaged/lost together with its estimated



- valuation;
- (c) The fact that it notified its workers of its action to apply for exemption from payment of wage increase;
 - (d) The fact that it is compliant with the previous Wage Order; and
 - (e) That in case the application is not granted, the employees shall receive the appropriate increase due them plus interest of one per cent (1%) per month retroactive to the effectivity of the Wage Order.

2. Pictures of damaged business property, if applicable.

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

Section 4. Extent and Duration of Exemption. A full exemption of one (1) year from effectivity of the Wage Order shall be granted to the applicant-establishment after meeting all the criteria as herein set forth.

Section 5. Procedure on Exemption

A. For Filing of Application

- 1. A verified application may be filed by the owner or duly authorized representative of an establishment in person, by mail, or by electronic filing through the official email address of the Board. The date of mailing shall be considered as the date of filing. Applications filed with the DOLE Regional, District/Field or Provincial offices are considered filed with the appropriate Board in the region.
- 2. All applications shall be filed not later than seventy-five (75) days from the date of publication of the Wage Order or from the date of declaration of calamity, as the case may be.

B. Opposition. Any worker or, if unionized, the union in the applicant establishment, may file an opposition, copy furnished the applicant, within fifteen (15) days from notice of filing of application for exemption. The opposition may be filed in person, by mail or by electronic filing through the official email address of the Board.

C. Action of the Board on the Application for Exemption

- 1. Upon receipt of an application for exemption, the Board Secretariat shall immediately communicate to the applicant any non-compliance with the formal requirements under this Rules, and the applicant must comply within the same period of 75 days. Applications with lacking requirements after the lapse of said period shall not be considered filed.
- 2. Where an application has been duly filed, the Board Secretariat shall notify the concerned DOLE Regional Office that action on any complaint for alleged non-compliance with the payment of the minimum wage, be deferred pending resolution of the application for exemption.
- 3. Request the DOLE Regional Office to conduct ocular inspection, if necessary, of establishments applying for exemptions to verify number



of workers, nature of business, compliance with the previous Wage Order and other relevant information.

4. The Board shall decide on the application for exemption within 45 days from the filing thereof. An application shall be considered filed if received by the Board Secretariat with complete documents pursuant to Section 3 of this Rule. After which, the Board Secretariat shall notify the applicant, the workers or union president, if any, and the concerned DOLE Regional Office of its Resolution (Annex "L").

Section 6. Effect of Disapproved Application for Exemption. Where the application for exemption has been denied, covered workers shall be paid the mandated wage increase/allowance from the date of effectivity of the Wage Order plus interest of one percent (1%) per month, retroactive to the effectivity of the Wage Order.

Section 7. Motion for Reconsideration. The aggrieved party may file a motion for reconsideration of the Board's resolution on the application for exemption within ten (10) days from notice thereof. The motion, copy furnished the other party, shall state the particular grounds upon which it is based.

No second motion for reconsideration shall be entertained in any case. The resolution of the Board to the motion shall become final and executory after ten (10) days unless appealed to the Commission.

Section 8. Appeal to the Commission. An appeal may be taken from the resolution of the Board on the application for exemption by filing a verified memorandum of appeal to the Commission within ten (10) days from notice thereof.

The appeal shall state the date appellant received the resolution of the Board, the ground relied upon and the arguments in support thereof copy furnished the appellee. The appeal may be filed in person, by mail, or by electronic filing through the official email address of the Board.

Immediately upon receipt of the Board of the appeal, the entire records of the case shall be transmitted to the Commission. The Commission shall then issue a notice of filing of appeal (*Annex "M"*). The appellee and the Board may file their opposition and comment, respectively, within ten (10) working days from receipt of the notice. The opposition and comment may be filed by concerned parties in person, by mail or by electronic filing through the official email address of the Commission.

The Commission shall resolve the appeal within sixty (60) calendar days from the filing thereof.

Section 9. Ground for Appeal. An appeal may be filed on the ground of grave abuse of discretion on the part of the Board for committing serious error in the application of law and non-compliance with prescribed guidelines and/or procedures.

Section 10. Adoption of Productivity Improvement Programs. The Board shall encourage enterprises granted with exemption to implement productivity improvement programs and install productivity-based incentive scheme.



RULE VIII QUORUM AND CONDUCT OF MEETING

Section 1. Quorum. At least four (4) members of the Commission or the Board shall constitute a quorum to transact business, provided that the Chairperson or the Vice Chairperson is present, and each sector is represented. The Commission or Board may dispense with the *proviso* requiring complete sectoral representation if two (2) representatives of a sector failed to attend for two (2) consecutive meetings despite proper notice.

The Commission and the Boards shall endeavor to meet physically in all its meetings. However, when there is an urgent matter to be addressed and where a physical or face-to-face meeting is not feasible for some or all members, a quorum may be constituted through the use of tele/videoconferencing technology. The quorum requirement shall be maintained until adjournment of meeting.

In voting, majority of the quorum shall carry an action or resolution of the Commission or the Board, provided that at least two (2) sectors voted for the same. The Wage Order, Decision Sheet, Order, or Resolution shall be signed by all members present, who may manifest their concurrence or dissent beside their signature, and may submit their explanation in a separate sheet of paper. The Chairperson shall direct the Secretariat to record the vote of each member present.

Section 2. Use of Electronic Signature. The Commission and the Board may authorize the Secretariat to safe keep and affix their respective electronic signature on any document as reflected in the corresponding minutes of meeting. Such electronic signature shall be presumed to be the signature of the person to whom it correlates, and was affixed by that person with the intention of signing or approving the electronic document pursuant to Republic Act No. 8792 or the Electronic Commerce Act of 2000. The Commission and the Board may also use digital signature validly issued by the Department of Information and Communications Technology (DiCT) or by any entity as may hereafter be authorized by the government.

The affixing of signature of any member does not necessarily carry with it assent to the act of majority. Hence, it is incumbent upon the member to clearly express his/her position, and instruct the Secretariat to annotate his/her dissent or any comment which will form part of his/her signature on matters being discussed and voted upon.

Section 3. Use of Tele or Videoconference During Meetings. The Commission and the Board may conduct meetings fully or partially through the use of tele or videoconferencing technology to enable them to collectively discuss, make decision, approve, affirm or take action, on urgent matters brought before the body where a physical or face-to-face meeting is not feasible, such as, but not limited to the following:

A. For the Board:

1. Minimum wage determination and promotion of productivity improvement;
2. Action on application for exemption from prescribed wage rates; and
3. Other incidental functions as may be necessary to carry out the aforementioned mandates.



B. For the Commission:

1. Review and affirmation of Wage Orders;
2. Appeal on Wage Order and application for exemption cases; and
3. Other urgent issues involving minimum wage determination, and productivity improvement.

Section 4. Notice of Meeting. The Secretariat shall send out notice via e-mail to all members of the Commission or the Board at least three (3) days prior to the scheduled meeting. The Secretariat shall also inform all members of the Commission or the Board through mobile call or text messaging. The notice shall include the following information:

- A. That the meeting will be done physically, via tele or video conferencing, or blended, specifying the application or platform to be used;
- B. Date and time of meeting;
- C. Agenda of meeting; and
- D. Access code and instructions to join and participate, if it will be done through tele or video conferencing.

Upon receipt of the e-mailed notice, the members of the Commission or the Board shall confirm his/her attendance by replying to the aforementioned e-mail, or through mobile call or text messaging to the Secretariat.

Section 5. Materials for the Conduct of Meeting. The Secretariat shall send out all documents and/or presentations to be discussed in the meeting together with the notice, either physically or electronically.

Section 6. Conduct of Meeting. For the proper and orderly conduct of meetings, the Board and the Commission shall adopt the following minimum standards in parliamentary procedure:

- A. Determination of existence of quorum;
- B. Review and approval of minutes of the previous meeting;
- C. Discussion of business matters arising from the previous meeting;
- D. Attendees' turn to speak;
- E. Making motions;
- F. Calling for recess, standing at ease, postponement or tabling of matters for discussion, among others; and
- G. Adjournment or Signing off in case of online meeting.

In case the meeting will be conducted through tele or videoconferencing, the Chairperson shall direct every attendee, after the determination of quorum, to state for the record, the following:

- A. Full name and sector represented;
- B. His/her current location;
- C. Confirmation that he/she can clearly hear and see the other attendees; and
- D. Confirmation that he/she received the notice and all materials for the meeting.



Section 7. Responsibilities of the Secretariat. To have an effective and efficient meeting, the Secretariat shall have the following duties and responsibilities:

- A. Prepare agenda and notice of meeting;
- B. Ensure the participation and presence of quorum of the members of the Commission or the Board;
- C. Take note of the proceedings and keep a record of the same;
- D. Prepare summary and minutes of meetings, including resolutions; and
- E. Provide overall assistance and technical support in the conduct of meeting.

In case the meeting will be conducted through tele or videoconferencing, the Secretariat shall further assume the following duties and responsibilities:

- A. Determine the digital platform to be used;
- B. Ensure attendees are able to hear and see the other participants clearly during the course of meeting;
- C. Assist the Chairperson in facilitating discussion of agenda items, including Commissioners' or Board Members' turn to speak, among others; and
- D. Ensure that except for the Chairperson, the microphones of all attendees are "turned-off" or put on "mute" mode when not speaking, for clear and orderly flow of discussion and to avoid background noise and distraction.

Section 8. Responsibilities of All Attendees to the Meeting. All attendees shall safeguard the integrity and confidentiality of proceedings and discussion in the meeting.

In case the meeting shall be conducted through tele or videoconferencing, every attendee shall ensure that he/she has a stable internet connection, and that he/she has access to the digital platform at least a day before the scheduled meeting

RULE IX FINAL PROVISIONS

Section 1. Correction of Error in a Wage Order. The Board may, *motu proprio*, proceed to correct patent typographical errors in a Wage Order. However, if the error involves a substantive change in the minimum wage rate or the covered sector, correction of error may be allowed only if the item to be corrected is supported by the minutes of the Board proceedings on the matter; and the Board shall convene again to affirm the same. If the minutes failed to capture the true intention of the Board, the latter shall convene and deliberate again to address the matter so as to correct or reflect their true intention in the Wage Order.

Any substantive change in the Wage Order shall require its republication.

Section 2. Confidentiality Clause. All results of deliberations and discussions from the conduct of consultations, public hearings, and hearings of petition/s for wage increase filed, shall remain in strict confidentiality until the Board has issued a Resolution or a new Wage Order, as the case may be, and the latter had been reviewed and affirmed by the Commission.

Section 3. Non-applicability of Technical Rules. All acts and proceedings before the Commission and the Boards shall be conducted without strict recourse to technical rules of procedure and evidence applicable to judicial proceedings.



Section 4. Prohibition Against Injunction. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or any other entity against all proceedings before the Commission or Board.

Proceedings before the Board shall include, among others, conduct of consultation and public hearings, and issuance of Wage Orders and Resolutions in the exercise of its quasi-legislative function.

The special civil actions under Rule 65 of the Rules of Court are not remedies available under this Rules to question the issuance of a Wage Order. Aggrieved parties may file an appeal pursuant to Rule V hereof.

Section 5. Emoluments. The Members of the Commission and the Boards attending any meeting or proceeding, be it physically, virtually or blended, shall be entitled to collect emoluments under existing rules and regulations.

Section 6. Enforcement and Monitoring of Compliance with Wage Orders. The DOLE Regional Office shall be responsible for the enforcement and monitoring of compliance with the Wage Order pursuant to the visitorial and enforcement power of the Secretary of Labor and Employment under Articles 128 and 129 of the Labor Code, as amended, and its implementing rules and regulations.

Section 7. Enforcement of Judgement or Final Orders. After denial with finality of an application for exemption from a Wage Order, the RTWPB shall refer enforcement to DOLE, pursuant to Article 128 of the Labor Code.

Should it be necessary, the provisions of the DOLE Sheriff's Manual and, suppletory, the Rules of Court, shall apply in the enforcement of resolutions, judgments or final orders of the Boards, the Commission and the Courts.

Section 8. Report of Enforcement of Wage Order. In coordination with the DOLE Regional Office, the Board shall submit a semi-annual report to the Commission on the status of enforcement of its Wage Order.

Section 9. Disposition of Pending Matters. The Commission and the Board shall exert all efforts to dispose of all matters pending before it within the shortest possible time.

Section 10. Commission and Board Records. Wage Orders and Resolutions of the Commission and Board may be made available to the requesting party pursuant to the NWPC Freedom of Information Manual.

Section 11. Custody of Records and Other Documents. The NWPC Records Officer and Board Secretaries shall be responsible for safekeeping of all official records of the Commission and Board, respectively.

Section 12. Repeal and Separability. All existing rules, regulations, resolutions, or orders issued by the Commission or any part thereof inconsistent with this Omnibus Rules are hereby, repealed, amended or modified accordingly. If any part or provision of this Omnibus Rule is declared unconstitutional or illegal, the other parts or provisions shall remain valid.




SARAH M. SALACOP
NWPC Records Officer
19 January 2021


Section 13. Effectivity. This Rules shall take effect after fifteen (15) days from its publication in one (1) newspaper of general circulation.

Manila, Philippines, 17 December 2020.



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Secretary
Department of Labor and Employment
Chairperson


Dept. of Labor & Employment
Office of the Secretary




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