



RULES IMPLEMENTING WAGE ORDER NO. BARMM-02

RULE 1 – GENERAL PROVISIONS

Pursuant to Section 19 of Wage Order No. BARMM-02, the following rules are hereby issued for guidance and compliance by all concerned.

Section 1. Title. These rules shall be known as the “Rules Implementing Wage Order No. BARMM-02.

Section 2. Definition of Terms.

- a) **“Agriculture”** refers to the farming in all its branches and among others, includes the cultivation, growing, and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other products in farms or ponds and any activities performed by a farmer or on a farm as an incident to or in conjunction with some farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products. for purposes of this Rules, Retail is included in this sector/industry;
- b) **“Apprentices”** are workers who is covered by a written apprenticeship agreement with an individual employer or any of the entities;
- c) **“BTWPB or Board”** means the Bangsamoro Tripartite Wages and Productivity Board for BARMM;
- d) **“BARMM”** refers to the Geographic Area in the Bangsamoro Autonomous Region in Muslim Mindanao covering the Provinces of Maguindanao, Lanao del Sur, Sulu, Tawi-Tawi, Basilan; the Cities of Lamitan in Basilan and Marawi in Lanao del Sur; and the Sixty -Three (63) Barangays in North Cotabato also known as Special Geographic Area including Cotabato City;
- e) **“Basic Wage”** means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost-of-living allowances, profit sharing payments, premiums payments, 13th month pay or other monetary benefits which are not considered as part or integrated into regular salary of the workers;
- f) **“Capital”** refers to a paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships, single proprietorships, and non-stock organizations respectively;
- g) **“Capital Impairment”** refers to the diminution of capital due to accumulated losses;
- h) **“Commission or NWPC”** refers to the National Wages and Productivity Commission;

- i) **“Conservatorship”** refers to a remedy resorted to by the Monetary Board in case a bank or quasi-banks is in a state of continuing inability or unwillingness to maintain creditors. A conservator is appointed to manage establishment in order to restore its viability;
- j) **“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 adjustment;
- k) **“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 hazard, whether due to a lack of time, capacity or resources, resulting in unacceptable levels of damage or number of casualties. (BDRRMC);
- l) **“Distressed Establishments”** refer to establishments which meet the criteria enumerated in Section 3A of the NWPC Guidelines No. 2, Series of 2007;
- m) **“Establishment”** refers to an economic unit, which engages in one or predominantly one kind of economic activity at a single fixed location;
- n) **“Financial Statement”** refers to a written report which quantitatively describes the financial health of a company. This includes the following: balance sheet, income statement of changes in equity, cash flow statement and notes to financial statement;
- o) **“Full Accounting Period”** refers to a period of twelve (12) months or one (1) year of business operations;
- p) **“Hazard”** refers to a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood or services, social and economic disruption, or environmental damage; any potential threat to public safety and/or public health; any phenomenon which has the potential to cause disruption or damage to people, their property, their services or their environment i.e., their communities. The four classes of hazards are natural, technological, biological and social hazards. [Bangsamoro Disaster Risk Reduction and Management Council (BDRRMC)];
- q) **“Interim Period”** refers to a financial reporting period shorter than a full financial year (most typically a quarter or half-year);
- r) **“Learners”** are persons hired as trainees in semi-skilled and other industrial occupations which are non-apprenticeable and which may be learned through practical training on the job in a relatively short period of time which shall not exceed three (3) months;
- s) **“Minimum Wage Earners”** are people earning within the statutory minimum wage that are fixed by the Bangsamoro Tripartite Wages and Productivity Board (BTWPB) of the Ministry of Labor and Employment (MOLE);

- t) **“Minimum Wage Rate”** refers to the lowest wage rate that an employer can pay his workers, as fixed by the Board;
- u) **“Ministry”** means the Ministry of Labor and Employment in BARMM;
- v) **“Net Loss”** refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues;
- w) **“New Business Enterprises”** refers to establishments, including non-profit institutions established within two (2) years from the effectivity of the Order based on the latest registration with appropriate government agency such as SEC, MTIT, and Mayor’s office;
- x) **“Non-Stock Non-Profit Organization”** refers to one organized principally for public purposes such as charitable, educational, cultural or similar purposes which does not issue shares of stock to its members;
- y) **“Non-Wage Benefits”** refer to non-cash benefits granted to workers such as group life insurance, hospitalization, scholarship, rice allowance, hajj pilgrim, and the like;
- z) **“Order”** means Wage Order No. BARMM-02;
- aa) **“Paid-up Capital”** refers to the total amount of shareholder capital that has been paid by shareholders;
- bb) **“Partnership”** refers to an association of two or more persons who bind themselves to contribute money, property or industry to a common fund with the intention of dividing the profits among themselves or for the exercise of a profession;
- cc) **“Plantation Agricultural Enterprise”** is the one engaged in the agriculture with an area of more than twenty-four (24) hectares in a locality or which employs at least twenty (20) workers. Any other agricultural enterprise shall be considered as non-plantation agricultural enterprise;
- dd) **“Quasi-Banks”** refer to institutions such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas;
- ee) **“R.A. No. 11054”** otherwise known as the Bangsamoro Organic Law (BOL) refers to the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao;
- ff) **“R.A. No. 8188”** refers to an act increasing the penalty and imposing double indemnity for violation of the prescribed wage increase in the wage rates amending for the purpose Section 12 of RA 6727 otherwise known as the Wage Rationalization Act;
- gg) **“Receivership/Liquidation”** refers to a remedy resorted by the Monetary Board in case a bank or quasi-bank is (a) unable to pay its liabilities as they become due in the ordinary course of business; (b) has insufficient realizable assets as determined by the Bangko Sentral ng Pilipinas to meet its liabilities; (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has willfully violated a

- cease and desist order under section 37 of R.A. 7653 that has become final involving acts or transactions which amount to fraud or dissipation of the assets of that institution;
- hh) **“Retail Establishments”** refers to an entity principally engaged in the sale of goods to end for personal or household use. A retail establishment that regularly engages in wholesale activities loses its retail character;
 - ii) **“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;
 - jj) **“Single Entry Approach (SEnA)”** refers to the administration approach to provide an accessible, speedy, impartial, and inexpensive settlement procedure of all labor and employment issues through a 30-days mandatory conciliation-mediation;
 - kk) **“Single Proprietorship”** refers to a business unit owned and controlled by only one person;
 - ll) **“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 (section 3 RA 10121, “Philippine Disaster Risk Reduction and Management Act of 2010”);
 - mm) **“Stock Corporation”** refers to one organized for profit and issues shares of stock to its members;
 - nn) **“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;
 - oo) **“Wage Distortion”** means a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage 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; and
 - pp) **“Under Corporate Rehabilitation”** refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction.

RULE II – MINIMUM WAGES RATES

Section 1. New Minimum Rate. Upon effectivity of the Order, all minimum wage earners in both agriculture and non-agriculture sectors in the Bangsamoro Autonomous Region in Muslim Mindanao shall receive a basic wage increase of **SIXTEEN PESOS (P16.00)** per day for Special Geographic Area (SGA), provinces of Maguindanao del Norte, Maguindanao del Sur, Lanao del Sur, Basilan, Sulu, and Tawi-Tawi, cities of Marawi, Lamitan and Cotabato, and 63 Barangays in North Cotabato.

The NEW MINIMUM WAGES RATES of covered workers in both agriculture sectors and non-agriculture sectors in BARMM shall be as follows:

FOR THE PROVINCES OF MAGUINDANAO DEL NORTE, MAGUINDANAO DEL SUR, LANA O DEL SUR, BASILAN, SULU, TAWI-TAWI AND THE CITIES OF MARAWI AND LAMITAN:

Sector/Industry	Minimum Wage under W.O. No. BARMM-01	Basic Wage Increase	New Minimum Wage under W.O. NO. BARMM-02
A. Non-Agriculture (Industrial/Manufacturing/Construction /Commercial/Mining/ Academe)	P300.00/day	P16.00/day	P316.00/day
B. Agriculture <ul style="list-style-type: none"> • Plantation • Non-Plantation • Retail 	P290.00/day	P16.00/day	P306.00/day

FOR COTABATO CITY AND 63 BARANGAYS IN NORTH COTABATO/ SGA OF BARMM:

Sector/Industry	Minimum Wage Under W.O. No. BARMM-01	Basic Wage Increase	New Minimum Wage Under W.O. No. BARMM-01
A. Non-Agriculture (Industrial/Manufacturing/Construction/ Commercial/Mining/ Academe)	P325.00/day	P16.00/day	P341.00/day
B. Agriculture <ul style="list-style-type: none"> • Plantation • Non-Plantation • Retail 	P300.00/day	P16.00/day	P316.00/day

Section 2. Coverage. The wage order and its Rules shall apply to all minimum wage earners in private sectors in the Bangsamoro Autonomous Region, except domestic helpers, those employed in the personal service of another, and others provided by existing laws, with certificates of authority pursuant to R.A 9178.

Section 3. Productivity Based Wages. In order to sustain rising levels of living condition and enhance competitiveness, business establishments are strongly encouraged to adopt productivity management cooperation as well as implement gain-sharing programs that will provide more incentives to the workers through increased productivity. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990”.

Section 4. Basis of Minimum Wage. The daily minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 5. Workers Paid by Results. All workers paid by results, including those who are paid on piecework, “takay”, “pakyaw”, or task basis, shall receive not less than the applicable minimum wage rates prescribed under this Order and its IRR for the normal

working hours which shall not exceed eight (8) hours 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) Amount of increase in AMW*
- $$\frac{\text{-----}}{\text{Previous AMW}} \times 100 = \% \text{ Increase}$$
- b) Existing rate/piece x % increase = increase in rate/piece;
- c) Existing rate/piece + increase in rate/piece = adjusted rate/piece;

*where AMW is the applicable minimum wage rate.

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

Sections 6. Wage of Special Groups of Workers. Wages of apprentices and learners shall in no case be less than seventy five percent (75%) of the applicable minimum wage rates prescribed in this Order.

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

All qualified handicapped workers and employees shall receive the applicable wage rates prescribed in this Order pursuant to R.A. 7277.

Section 7. Application to Private Educational Institutions. In the case of private educational institutions, necessarily that those covered¹ workers and employees shall receive not less than the applicable minimum wage rates prescribed provided in this Order. Any increase in tuition fees that results in a wage increase is already at the discretion of private educational institutions.

Section 8. Suggested Formula in Determining the Estimated Equivalent Monthly Regional (EMR) Minimum Wage Rates as per Republic Act No. 9492, unless otherwise modified by law, order or proclamation. Without prejudice to existing company practices, agreement or policies, the following formula may be used as guide in determining the estimated equivalent monthly minimum wage rate:

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

¹ See Section 2, Rule II of this Rules - Coverage

Estimated equivalent monthly rate (EEMR) = Applicable Daily Wage Rate (ADR) x No. of days

		12 months
Where 397.40 days/year	=	292.00
		20.00
		10.00
		67.60
		<u>7.80</u>
		397.40
		292 Ordinary working days
		10 regular holidays x 200%
		5 Muslim holidays x 200%
		52 rest days x 130%
		6 special N-W days x 130%
		Total no. of days/year

2023

Where 398.00 days/year	=	290.00	290 Ordinary working days
	=	20.00	10 regular holidays x 200%
	=	10.00	5 Muslim holidays x 200%
	=	67.60	52 rest days x 130%
	=	<u>10.40</u>	8 special N-W days x 130%
		398.00	Total no. of days/year

For those who do not work but are considered paid on the rest days, special days and regular Holidays Muslim Legal Holidays:

$$\text{EEMR} = \frac{\text{ADR} \times \text{No. of days}}{12 \text{ months}}$$

Where 365 days/year	=	292	Ordinary working days
	=	52	Sundays/rest days
	=	10	Regular holidays
	=	5	Muslim holidays
	=	<u>6</u>	Special N-W days
		365	Total no. of days/year

b. For those who do not work and are not considered paid on Sundays or rest days (52 days):

$$\text{EEMR} = \frac{\text{ADR} \times \text{No. of days}}{12 \text{ months}}$$

Where 313 days /year	=	290	Ordinary working days
		10	Regular holidays
		5	Muslim holidays
		<u>8</u>	Special N-W days
		313	Total no. of days/year

c. For those who do not work and not considered paid on Saturdays and Sundays or rest days (104 days):

$$\text{EEMR} = \frac{\text{ADR} \times \text{No. of days}}{12 \text{ months}}$$

Where 261 days/year	=	238	Ordinary working days
		10	Regular holidays
		5	Muslim holidays
		<u>6</u>	Special N-W days
		261	Total no. of days/year

The following are the twelve (10) regular holidays² which are observed nationwide:

New Year's Day	January 1
Araw ng Kagitingan	April 9
Maundy Thursday	Movable Date
Good Friday	Movable Date
Labor Day	May 1
Independence Day	June 12
National Heroes Day	August 29
Bonifacio day	November 30
Christmas	December 25
Rizal Day	December 30

Special Non-Working Days³:

Chinese New Year (Not in the 2023 list)	February 1
Edsa People Power Revolution Anniversary	February 25
Black Saturday	Movable Date
Ninoy Aquino Day	August 21
All Saint's Day	November 1
Feast of the Immaculate Conception of Mary	December 8
Last day of the Year (Added in 2023)	December 31

Additional Non-Working Days -2023⁴:

January 2
November 2

Muslim Holidays⁵:

Eid'I Fitr	1 st day of Shawal
Eid'I Adha	10 th day of Dul Al-Hijjah
Amun Jadid (Islamic New year)	Falls on the 1st day of the lunar month of Muharam
Maulid-un-Nabi (Birthday of the Prophet Muhammad)	Falls of the 12th day of the 3rd lunar month of Rabil-ul-Awwal
Isra Wal Miraj (Night Journey and Ascension of the Prophet Muhammad PBUH)	Falls on the 27th day of the 7th lunar month of Rajab

² Proclamation No. 1236

³ Proclamation No. 1236 (Modified the list of Special Non-Working Days provided in R.A. 9492 but still with the same number of days)

⁴ Proclamation No. 90 (Modified the number of Special Non-Working Days provided in R.A. 9492)

⁵ Title I, Book V of Presidential Decree No. 1083

Section 9. Application to Contractor. In the case of contracts for construction project and for security, janitorial services, the prescribed wage rates shall be borne by the principals or clients of the constructions/services contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the construction / service contractor shall be jointly and severally liable with his principal or client.

Section 10. 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 of workers working in branches or agencies of establishments in the region shall be those applicable in the place where they are stationed.

Section 11. Transfer of Personnel. The transfer of personnel to areas outside the Region shall not be valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to the other regions with higher wage rates shall be entitled to the minimum wage rate applicable therein. Further, those who have worked from other region within one (1) year prior to the approval of Wage Order BARMM-02 with higher wage shall maintain the same except otherwise, shall follow this Order.

Section 12. Appeal to the Commission. Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The commission shall decide the appeal within sixty (60) calendar days from the date of filing. The appeal shall be accompanied by a memorandum of appeal, which shall state the grounds relied upon, and the arguments in support of the appeal.

Section 13. Effect of Filing of Appeal. The filing of the appeal does not operate to stay the Order unless the party appealing such order shall file with the Commission an undertaking with surety or sureties satisfactory to the Commission for payment to the employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

RULE III – EXEMPTIONS⁶

Section 1. Establishment that May be Exempted and Criteria for Exemption. Upon application with, and as determined by the Board, in accordance with the applicable rules and regulations, the following maybe exempted from the applicability of the Order:

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

⁶ NWPC Guidelines No. 02 Series Of 2007- Amended Rules on Exemption from Compliance with the Prescribed Wage Increases/ Cost Of Living Allowances Granted By The Regional Tripartite Wages And Productivity Boards

II. Distressed Establishments

1. For Corporations/Cooperatives

a. Full Exemption

a.1 When the deficit as of the last full accounting period immediately preceding the effectivity of the Order amounts to 20% or more of the paid-up capital of the same period; or

a.2 When an establishment registers capital deficiency, i.e., negative stockholders' equity as of the last full accounting period immediately preceding the effectivity of the order.

b. Partial Exemption

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

c. Conditional Exemption

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

2. For single Proprietorship/Partnerships

a. Full Exemption

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

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

b. Partial Exemption

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

c. Conditional Exemption

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

3. For Non-stock, Non-profit Organizations

a. Full Exemption

a.1 When the accumulated net loss for last two (2) full accounting periods immediately preceding the effectivity of the order amount to 20% or more fund balance/member' contribution at the beginning of the period: or

a.2 When an establishment registers capital deficiency i.e. negative fund balance/members contributions at the beginning period.

b. Partial Exemption:

b.1 When the accumulated net losses for the last two (2) full accounting period immediately preceding the effectivity of the Order amount to at least 10% but not more than 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% of the assets.

4. For banks and Quasi-banks

a. Under receivership/liquidation:

Exemption may be granted to bank or quasi-bank under receivership liquidation when there is a certification from the Bangko Sentral ng Pilipinas that it is under receivership or liquidation as provided in Section 30 of RA 7653, otherwise known as the New Central Bank Act.

b. Under controllership/conservatorship

A bank or quasi-bank under controllership/conservatorship may apply for exemption as a distressed establishment under section 3 A of the amended rules on exemptions.

5. Establishments under corporate rehabilitation

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

III. New Business Enterprises

Exemption may be granted to new business enterprises duly registered and established outside the National Capital Region (NCR) and the export processing zone within two (2) years from the effectivity of the Order classified under any of the following:

1. Agriculture establishments whether plantation or non-plantation.
2. Establishments with total assets after financing of five million pesos

IV. Establishment Adversely Affected by Natural Calamities and Human-Induced Disasters

1. The establishment must be located in an area declared by a competent authority as under a state of calamity/disaster.
2. The calamity must have occurred within six (6) months prior to the effectivity of this Wage Order. However, if based on the assessment by a competent authority, the damage to properties is at least 50% and the period of recovery will exceed one year, the six-month period may be extended to one year.
3. Losses suffered by the establishment as a result of the calamity/disaster that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnership and single proprietorships and fund balance/members' contribution in the case of non-stock non-profit organizations.
4. Where necessary, the board or its duly-authorized representative shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

Section 2. Application for Exemption. Within seventy-five (75) days from the date of publication of these rules, an application for exemption shall be filed with the Board in three (3) legible copies by the owner/manager or duly authorized representative of an establishment either through personal service or by registered mail provided that all the required documents in support of the application must be of required documents shall be allowed. The date of mailing shall be deemed as the date of filing.

Application for exemption filed with the MOLE-BARMM, Regional office or any of its Provincial Offices are considered filed with the Bangsamoro Tripartite Wages and Productivity Board of the Bangsamoro Autonomous region.

The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 5, Rule III or these Rules.

Section 3. Duration and Extent of Exemption.

- A. Full exemption of one (1) year from effectivity of the Order shall be granted to all categories of establishment that meet the applicable criteria for exemption under Section 1, Rule III of these Rules.
- B. Partial exemption of 50% from effectivity of the Order with respect to the amount or period of exemption shall be granted only in the case of distressed establishment under Section 1, Rule III of these Rules.
- C. Conditional exemption of one (1) year from the effectivity of the Order shall be granted only in the case of distressed establishment under Section 1 of Rule IV of these Rules. The conditional exemption shall be confirmed, as follows:

1. For Corporations

When deficit as defined in this Rules, as of the full accounting period amounts to 20% or more of the paid-up capital for the same period.

2. For Single Proprietorships and Partnership.

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

3. For Non-Stock, Non-Profit Organizations

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

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

Section 4. Procedures for Exemption.

A. Filing of Application

1. An application, in three (3) legible copies may be filled with the BTWPB by the owner/manager or duly authorized representative of an establishment, in person, or by registered mail.

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

Applications for exemption filed with the MOLE-BARMM, district or provincial offices are considered filed with the BTWPB in the region.

2. All application for exemption shall be under oath, accompanied by complete supporting documents and must be filed within seventy-five (75) days from publication of these Rules. No further extension for filing and submission of the required documents shall be allowed.

In the case of New Business Establishment (NBEs), application shall be filed not later than sixty (60) days from the date of registration.

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

Application under the preceding paragraph shall also include a certification that a general assembly to explain to its workers and employees its intent to file an application and an undertaking to conduct another assembly informing its workers and employees of the decision of the Board on its application.

B. Filing of Opposition

Any worker or union in the applicant establishment it unionized 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 there of three (3) legible copies, under oath and accompanied by the pertinent documents, if any.

C. Filing of 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 receipt of the same and shall state the particular grounds upon which the motion is based, copy furnished the other party and the MOLE-BARMM.

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

D. 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 the date of receipt of the decision.

The Appeal, with proof of service to the other party, shall be accompanied by a Memorandum of Appeal in two (2) legible copies, not later than ten (10) days from the date of receipt of the decision.

2. Grounds for Appeal – An appeal may be filed on the following grounds:
 - a. Non-conformity with the prescribed guidelines and/or procedures on exemption;
 - b. Prima facie Evidence of grave abuse of discretion on the part of the Board; 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 him 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, shall be transmitted by the Board to the Commission.

Section 5. Documents Required. The following supporting documents shall be submitted together with application for 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 the is no union, a copy of a circular giving general notice of the filing of the application to all their workers in the establishment. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

A. For Retail and Service Establishments regularly employing not more than ten (10) workers

1. Affidavit from the employer stating the following:
 - a. It is a retail/service establishment;
 - b. It is regularly employing not more than ten (10) workers for at least six (6) months in any calendar year; and
 - c. Number of employees with its corresponding names and date of employment.
2. Business Permit for the current year from the appropriate government agency.

B. For Distressed Establishments

1. For Corporations, Cooperatives, Single Proprietorships, Partnerships, Non-stock Non-Profit Organizations:
 - a. Full or Partial Exemption
 - a.1. Audited financial statements together with the Auditor's opinion and the notes thereto for the last two (2) full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriate agency.
 - b. Conditional Exemption
 - b.1. Audited financial statement (together with the Auditor's opinion and the notes thereto) for the last full accounting period and interim quarterly financial statements for the period immediately preceding the effectivity of the order.
 - b.2. To confirm the grant of conditional exemption, audited financial statements for the last full accounting period, stamped received by the appropriate government agency, to be submitted within 30 days from the lapse of the one-year exemption period.
2. For Banks and Quasi-banks Certification from Bangko Sentral ng Pilipinas that it is under receivership/liquidation.
3. For Establishments Under Corporate Rehabilitation

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

C. For New Business Enterprises

1. Affidavit from employer regarding the following:
 - a. Principal economic activity
 - b. Date of registration with the appropriate government agency
 - c. Amount of total assets
2. Certificate of registration from the appropriate government agency

D. For establishments Adversely Affected by Natural Calamities and Human Induced Disaster

1. Affidavit from the general Manager or chief executive Officer of the establishment regarding the following:
 - a. Date and type of calamity/disaster;
 - b. Amount of losses/damages suffered as a direct result of the calamity/disaster;
 - c. List of properties damaged/lost together with estimated valuation;
 - d. For properties that are not insured, a statement that the same are not covered by insurance.
2. Copies of insurance policy contracts covering the properties damage, if any.
3. Adjuster 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.
5. Audited Financial Statements for the last full accounting period preceding the effectivity of the wage order, stamped received by the appropriate government agency. In case of total damage to properties caused by the calamity, a certification by the Barangay and pictures of the damaged property/ies may be submitted in lieu of the Audited Financial Statements.

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

Section 6. Effect of Filing of the Application for Exemption. Whenever an application for exemption is filed with the Board, the Ministry shall be duly notified thereof. Pending resolution of the said application, action on any complaint for alleged non-compliance with the order shall be deferred by the Ministry.

Section 7. Effect of Filing of the Application for Exemption. In the event that the application for exemption is disapproved, covered workers shall be paid the prescribed wage increase as provided for under the Order retroactive to the date of effectivity of the Order.

RULE IV – SPECIAL PROVISIONS

Section 1. Effect on Existing Wage Structure. Where the application of the prescribed minimum wage rate results in distortions in the wage structure within an establishment, which gives rise to dispute therein, such dispute shall be settled voluntarily between the parties.

In cases where there are collective bargaining agreements or recognized labor unions, the employers and the union shall negotiate to correct such 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,

the voluntary arbitrator or panel of voluntary arbitrators shall decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

During voluntary settlement, such pendency of a dispute, increase in wage distortion shall not in any way delay the applicability of any prescribed wage rates pursuant to the provisions of the Wage Order.

Section 2. Complaints for Non-Compliance. Complaints for non-compliance with the Order shall be filed with the Ministry of Labor and Employment having jurisdiction over the workplace and shall be subject to the Mandatory Thirty Day (30) conciliation and mediation process under Single Entry approach (SEnA). However, if all settlements under the Bangsamoro Administrative Code is Exhausted and still fails, the case becomes subject of enforcement proceedings under article 128 and 129 of the Labor Code, as amended.

Section 3. Conduct of inspection by the Ministry. The Ministry shall conduct inspection of establishments, as often as necessary, to determine whether the workers are paid the prescribed wage rates and other benefits granted by law or any wage order. In the conduct of inspection in unionized companies, MOLE-BARMM inspectors shall always be accompanied by the president or other responsible officer of the establishment and a worker representing the workers in the said company.

The workers' representative shall have the right to submit his own findings to the Ministry and to testify on the same if he does not concur with the findings of the labor inspector.

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. Penalty Provision⁷. Pursuant to the provision amending Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in the order shall be punished by a fine of not less than Twenty-Five thousand pesos (P25,000.00) but not more than One Hundred Thousand Pesos (P100,000.⁷00) and imprisonment of not less than (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided, that any persons convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits due to the employees: provided, that any payment of indemnity shall not absolve the employees from the criminal liability imposable under this order.

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

⁷ Republic Act No. 8188, An Act Increasing the Penalty and Increasing Double Indemnity For Violation of the Prescribed Increases Or Adjustment in the Wage Rates, Amending For the Purpose Section Twelve of Republic Act Number Sixty-Seven Hundred Twenty-Seven, Otherwise Known the Wage Rationalization Act

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 Bargain. The Order shall not be construed to prevent workers from bargaining for higher wages and flexible working arrangements with their respective employers.

Section 8. Reporting Requirements. Any person, company, corporation, partnership or entity engaged in business shall submit a verified report on their wage structure to the Board not later than January 31st of each year and every year thereafter in accordance with the prescribed form. Failure to comply will be dealt with accordingly. (Refer to Annex "A" for the prescribed form)


Section 9. Repealing Clause. All Orders, issuances, Rules and regulations on wages, or parts thereof inconsistent with the provisions of the Wage 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 held invalid or unconstitutional, the remainder of the order and the Rules or the application of such provision or part thereof to the other persons or circumstances shall not be affected thereby.

Section 11. Effectivity of Rules. These Rules shall take effect immediately after its publication in the Bangsamoro Gazette of the Bangsamoro Government or in a newspaper of regional circulation in the Bangsamoro Autonomous Region and shall have a retroactive effect since the effectivity date of its Wage Order.

Signed this 27 day, FEB 2023 at Cotabato City, Bangsamoro Autonomous Region in Muslim Mindanao, Philippines.



JONATHAN P. ACOSTA
Workers Representative



NORLYM P. ODIN
Workers Representative


MOHAJIRIN T. ALI
Vice Chairperson
Director General, BPDA-BARMM


ATTY. ANWAR A. MALANG
Employers Representative


DATU HARON U. BANDILA
Employers Representative

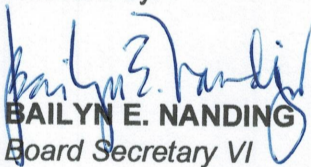

ABUAMRI A. TADDIK
Vice Chairperson
Minister, MTIT-BARMM


MUSLIMIN G. SEMA
Chairperson
Minister, MOLE-BARMM

APPROVED this 20 day of APR, 2023.


AHOD B. EBRAHIM
Chief Minister

Attested by:


BAILYN E. NANDING
Board Secretary VI