

GUIDELINES ON THE IMPOSITION OF DOUBLE INDEMNITY FOR NON-COMPLIANCE WITH THE PRESCRIBED INCREASES OR ADJUSTMENTS IN WAGE RATES

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Pursuant to the rule-making authority of the Secretary of Labor and employment under Article 5 of the Labor Code, as amended, and Section 13 of Republic Act No. 6727, and to ensure uniformity in the implementation of the provisions of Republic Act No. 8188 entitled, "An Act Increasing the Penalty and Imposing Double Indemnity for Violation of the Prescribed Increases or Adjustments in the Wage Rates, Amending for the Purpose Section Twelve of Republic Act Numbered Sixty-Seven Hundred Twenty Seven, Otherwise Known as the Wage Rationalization Act", this Guidelines is hereby promulgated for the guidance of and compliance by all concerned.

SECTION 1. Coverage. — This Guidelines shall apply to any person, corporation, trust, firm, partnership, association, organization, or entity in the capacity of an employer.

SECTION 2. Definition of Terms. — As used in this Guidelines, the following terms shall mean:

- (a) "Act" refers to Republic Act No. 8188.
- (b) "Department" refers to the Department of Labor and Employment.
- (c) "Regional Director" refers to the director of the Regional Office of the Department.
- (d) "Board" refers to the Regional Tripartite Wages and Productivity Board.
- (e) "Employer" refers to any person, corporation, trust, firm, partnership association or entity acting directly or indirectly in the interest of the employer in relation to an employee.
- (f) "Employee" refers to any individual employed by an employer.
- (g) "Wage rates" refer to the lowest basic pay that an employer can pay his workers including cost of living allowances as fixed by the Board, but excludes other wage-related benefits such as overtime pay, bonuses, night shift differential pay, holiday pay, premium pay 13th month pay, premium pay, leave benefits, among others.
- (h) "Wage Order" refers to the order promulgated by the Board pursuant to its wage fixing authority.
- (i) "Prescribed increases or adjustments" refer to the amount of increase or adjustment in the wage rate of workers fixed by the Board which the employer is mandated to pay upon effectivity of a wage order.
- (j) "Violation" refers to the refusal or failure to pay by an employer of the prescribed increases or adjustments as may be established by the Regional Director.
- (k) "Unpaid benefits" refer to the prescribed wage rates which the employer failed to pay upon the effectivity of a wage order, exclusive of other wage-related benefits. "Unpaid benefits" as herein understood shall be the principal basis for computing the double indemnity.
- (l) "Double Indemnity" refers to the payment to concerned employee of the prescribed increases or adjustments in

the wage rate which was not paid by an employer in an amount equivalent to twice the unpaid benefits owing to such employee.

(m) "Notice of Inspection Result" refers to the inspection from duly accomplished and issued by the labor standards enforcement officer to the employer or his representative after the completion of the inspection. The notice shall specify the violations discovered, if any, together with the officer's recommendation and computation of the unpaid benefits due each worker, with an advice that the employer shall be liable for double indemnity in case of refusal or failure to correct the violation within five (5) calendar days from receipt of notice.

(n) "Compliance Order" refers to the order issued by the Regional Director, after due notice and hearing conducted by himself or a duly authorized hearing officer finding that a violation has been committed and directing the employer to pay the amount due each worker within ten (10) calendar days from receipt thereof.

SECTION 3. Issuance of a Compliance Order. In cases where the Secretary of Labor and Employment or the Regional Director has acquired jurisdiction over a violation as defined herein pursuant to the visitatorial and enforcement powers vested upon him by Article 128 (b) of the Labor Code, as amended, he shall have the power to issue a compliance order to give effect to the provisions of the Act. Such order shall be subject to the following principles:

a) In case of routine inspection where a violation has been established after due notice and hearing where appropriate, the Regional Director shall, after seven (7) calendar days from the employer's receipt of the notice of inspection result, issue a compliance order.

b) In case of complaint inspection, the Regional Director shall call for summary investigation and after due notice and hearing shall, where appropriate, issue a compliance order.

c) The compliance order shall direct the employer to pay the amount due each worker within (10) days from receipt thereof and to submit proof of compliance. The order shall specify the amount due each worker and shall include the computation on which the order was based.

d) Upon the finality of the compliance order, the Regional Director shall cause the issuance of a writ of execution for its enforcement.

e) No compliance order shall be issued during the pendency of an application for exemption from a wage order duly filed with the appropriate Board.

SECTION 4. Double Indemnity; When to Start Period of Computation

a) The computation for double indemnity as herein defined shall start from the effectivity of the prescribed increases or adjustments as indicated in the wage order.

b) The basis for the computation of double indemnity shall be limited to the unpaid benefits as defined herein.

c) Where there is partial compliance with the prescribed increase or adjustment, the basis for computing double indemnity shall be the balance of unpaid benefits reckoned from the effectivity of the wage order.

SECTION 5. Supersession Clause. — All rules, regulations, issuances, or parts thereof which are inconsistent with these Guidelines are deemed superseded or modified accordingly.

SECTION 6. Separability Clause.— If any provision or portion of this Guidelines is declared void or unconstitutional, the remaining portions or provisions hereof shall continue to be valid and effective.

SECTION 7. Effectivity. — This Guidelines shall take effect fifteen (15) days after its complete publication in at

least one (1) newspaper of general circulation.

Adopted: 04 May 1998

(SGD.) CRESENCIANO B. TRAJANO

Secretary

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