

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD - IX
Regional Office No. 9
Zamboanga City

WAGE ORDER NO. RIX-10
PRESCRIBING FOR THE GRANT OF COST OF LIVING ALLOWANCE

HEREAS, consistent with the policy of providing workers with safety net protection, the Board recognizes the need to review the current minimum wage levels;

WHEREAS, the Board, in the exercise of its wage fixing function and in order to determine whether or not there is a need to upgrade the minimum wage levels in the region, motu proprio, conducted public consultations in Ipil, Zamboanga Sibugay on September 17, 2001; in Dipolog City, Zamboanga del Norte on September 18, 2001; in Pagadian City, Zamboanga del Sur on September 19, 2001; in Zamboanga City on September 25, 2001; and in Isabela City on October 9, 2001;

WHEREAS, results of the consultations show that there is a need to issue a new wage order to address the concerns of labor and to alleviate the plight of the minimum wage earners in the region;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board No. 09, hereby issues this Wage Order:

Section 1 - AMOUNT AND EFFECTIVITY OF COLA.

Upon effectivity of this Wage Order, all workers and employees in the private sector in the region presently receiving the daily minimum wage rates prescribed in Wage Order No. RIX-09 shall receive a cost of living allowance in the amount of TEN (P10.00) PESOS per day. Within six (6) months from effectivity of this Wage Order, the Regional Board shall assess the effects of the TEN PESOS COLA for the purpose of modifying the same should it be deemed necessary.

Section 2 - COVERAGE.

All daily minimum wage workers and employees in the region are covered by the provisions of this Wage Order, except household or domestic helpers and persons employed in the personal service of another, including family drivers.

Section 3 - BASIS OF COLA.

The prescribed cost of living allowance (COLA) under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4 - WORKERS PAID BY RESULTS.

All workers paid by results, including those who are paid on piecework, "takay", "pakyaw" or task basis, shall be entitled to receive the prescribed COLA per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 5 - WAGES OF SPECIAL GROUP OF WORKERS.

Cost of living allowance of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable COLA prescribed in this Order.

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

Section 6 - APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.

In the case of private educational institutions, the COLA shall take effect not later than the date the school actually increases tuition fees. However, beginning school year 2002-2003, all schools shall pay the COLA whether or not they have actually increased tuition fees.

Section 7 - APPLICATION TO CONTRACTORS.

In the case of contracts for construction projects and for security, janitorial and similar services, the COLA prescribed in this Order shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the COLA, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8 -- APPLICATION TO INDUSTRIES WHOSE REVENUES ARE REGULATED BY LAW.

Industries whose revenues are regulated by law (such as arrastre, transportation, utilities, etc.) shall comply with this Wage Order immediately upon approval of an adjustment in their rates by the concerned government agencies but not later than three (3) months from effectivity of this Order.

Section 9 -- EXEMPTION, NON-AVAILABILITY.

The exemptions previously granted to exemptible categories are no longer available under this Wage Order considering that the Order merely provides for temporary or alternative relief to minimum wage earners.

Section 10 - APPEAL TO THE COMMISSION.

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

Section 11 -- 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 a surety or sureties satisfactory to the Commission for payment of the corresponding COLA to employees affected by the Order in the event such Order is affirmed.

Section 12 -- EFFECTS ON EXISTING WAGE STRUCTURE.

Where the application of the COLA under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Art. 124 of the Labor Code, as amended.

Section 13 -- COMPLAINTS FOR NON-COMPLIANCE.

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

Section 14 - NON-DIMINUTION OF BENEFITS.

Nothing in this Order shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, and executive orders and/or under any contract or agreement between the workers and employers.

Section 15 - PENAL PROVISION.

Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed minimum wage rates in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 16 - 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 17 - FREEDOM TO BARGAIN.

This Order shall not be construed to prevent workers in particular firms or enterprises or industries from bargaining for higher wages and/or COLA with their respective employers.

Section 18 - REPORTING REQUIREMENT.

Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2003, and every year thereafter in accordance with the form prescribed by the Commission.

Section 19 - REPEALING CLAUSE.

All laws, orders, issuances, rules and regulations, or parts thereof inconsistent with the provisions of this Wage Order are hereby repealed, amended or modified accordingly.

Section 20 - SEPARABILITY CLAUSE.

If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 21 - IMPLEMENTING RULES.

The Board shall prepare the necessary rules to implement this Order subject to approval of the Secretary of Labor and Employment.

Section 22 - EFFECTIVITY.

This Wage Order shall take effect fifteen (15) days after its complete publication in at least one (1) newspaper of general circulation in the region.

APPROVED: 21 February, 2002, Zamboanga City, Philippines.

(SGD) ARSENIO L. GONZALEZ, JR. Member, Employers' Representative	(SGD) JOSE J. SUAN Member, Labor Representative
(SGD) EDGAR B. LIM Member, Employers' Representative	(VACANT) Member, Labor Representative
(SGD) RAFAEL G. EVANGELISTA, JR Vice-Chairman, NEDA	(SGD) NAZRULLAH B. MANZUR Vice-Chairman, DTI
(SGD) LOURDES M. TRASMONTE Chairman, DOLE	

Effectivity Date: March 16, 2002

Note: The Order was published on March 1, 2002 in the Daily Zamboanga Times.

Rules Implementing Wage Order No. RIX-10

Rule I - General Provisions

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 21 of Wage Order No. RIX-09, the following rules are hereby issued for guidance and compliance by all concerned.

Section 1. Title

This Rules shall be known as the "Rules Implementing Wage Order No. RIX-10"

Section 2. Definition of Terms.

- a) "Act" means Republic Act No. 6727.
- b) "Order" means Wage Order No. RIX-10.
- c) "Commission" refers to the National Wages and Productivity Commission.
- d) "Board" refers to the Regional Tripartite Wages and Productivity Board No. 09.
- e) "Department" refers to the Department of Labor and Employment.
- f) "Agriculture" refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds and any activity performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, tobacco, pineapple, aquatic or other farm products.
- g) "Plantation Agricultural Enterprise" is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers, any other agricultural enterprises shall be considered as non-plantation agriculture enterprise.
(g.1) "Rubber-based Plantation and/or Non-Plantation Enterprise" is one engaged primarily in the production of purely raw rubber where at least fifty percent (50%) or more of the area is planted to rubber.
- h) "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location.
- i) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use.
A retail establishment that regularly engages in wholesale activities loses its retail character.
- j) "Service Establishment" is one principally engaged in the sale of services to individuals for their own and household use and generally recognized as such.
- k) "Establishment regularly employing not more than 30 workers" refers to an establishment employing not more than 30 workers regardless of status, except the owner/s for at least six (6) months in any calendar year.
- l) "Cottage / Handicraft Establishment" is one engaged in an economic endeavor in which the products are primarily done in the home or similar places for profit which requires manual dexterity and craftsmanship and whose capitalization does not exceed P1,500,000.00 regardless of previous registration with the defunct NACIDA.
- m) "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 investments, premium payments, 13th month pay and other monetary benefits, which are not considered as part or integrated into the regular salary of the workers on the date this Order became effective.
- n) "Statutory Minimum Wage" is the lowest wage rate fixed by law that an employer can pay his workers.
- o) "Regional Minimum Wage Rates" refer to the lowest wage rate that an employer can pay the workers, as fixed by the Board, which shall not be lower than the applicable statutory minimum wage rates.
- p) "COLA" refers to cost of living allowance as prescribed by the Board.
- q) "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 or salary rates between and among employee groups in an establishment as to effectively obliterate the distinction embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.
- r) "Region IX" refers to Western Mindanao Region comprising the provinces of Zamboanga del Sur, Zamboanga del Norte, Zamboanga Sibugay and the cities of Zamboanga, Pagadian, Dipolog, Dapitan and Isabela.

Rule II - Cost Of Living Allowance

Section 1. Amount and Effectivity of COLA.

The payment of COLA prescribed under this Order shall take effect on 16 March 2002, and within six (6) months from effectivity of the Order, the Regional Board shall assess the effects of the TEN PESOS COLA for the purpose of modifying the same should it be deemed necessary.

Section 2. Coverage.

All daily minimum wage workers and employees in Region IX are covered by the provisions of this Order, regardless of their position, designation or status and irrespective of the method by which their wages are paid, except household or domestic helpers and persons employed in the personal service of another, including family drivers.

Section 3. Basis of COLA.

The prescribed COLA under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

Section 4. Workers Paid by Results.

All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall be entitled to receive the prescribed COLA for the normal working hours which shall not exceed eight (8) hours work a day, or a proportion thereof for work of less than the normal working hours.

Section 5. COLA of Special Groups of Workers.

Cost of living allowance of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable COLA prescribed in this Order.

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

Section 6. Application to Private Educational Institutions.

In the case of private educational institutions, the COLA shall take effect not later than the date the school actually increases tuition fees. However, beginning school year 2002-2003, all private schools shall pay the COLA whether or not they have actually increased tuition fees.

Section 7. Application to Contractors.

In the case of contracts for construction projects and for security, janitorial services and similar services, the prescribed COLA shall be borne by the principals or clients of the constructions/service contractors and the contract shall be deemed amended accordingly. In the event, that the principal or client fails to pay the prescribed COLA, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 8. Application to Industries whose revenues are regulated by law.

Industries whose revenues are regulated by law (such as arrastre, transportation, utilities, etc.) shall comply with the COLA prescribed in this Order immediately upon approval of an adjustment in their rates by the concerned government agencies but not later than three (3) months from effectivity of this Order.

Section 9. Mobile and Branch Workers.

The minimum wage rates and/or COLA of workers, who by nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

Section 10. Transfer of Personnel.

The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the wage rates and/or COLA being enjoyed by the workers prior to such transfer. The workers transferred to the other Regions with higher wage rates and/or COLA shall be entitled to the minimum wage rate and/or COLA applicable therein.

Section 11. 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 12. Effect of Appeal.

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

Section 13. Suggested Formula in Determining the Equivalent Monthly Minimum Wage Rates.

Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rates:

- a) For those who are required to work everyday including Sundays or rest days, special days and regular holidays:

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

Where 391.50 days :

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

- b) For those who do not work but are considered paid on rest days, special days and regular holiday:

$$\text{EMR} = \frac{\text{ADR} \times 365 \text{ days}}{12}$$

Where 365 days:

- 302 days - Ordinary working days
- 51 days - Rest days
- 10 days - Regular Holidays
- 2 days - Special days
- 365 days - Total equivalent number of days

- c) For those who do no work and are not considered paid on Sundays or rest days:

$$\text{EMR} = \frac{\text{ADR} \times 314.60 \text{ days}}{12}$$

Where 314.60 days:

- 302 days - Ordinary working days
- 10 days - Regular Holidays
- 2.60 days - 2 Special days (if worked) x 130%
- 314.60 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 262.60 \text{ days}}{12}$$

Where 262.60 days:

- 250 days - Ordinary working days
- 10 days - Regular Holidays
- 2.60 days - 2 Special days (if worked) x 130%
- 262.60 days - Total equivalent number of days

Note 1: For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August being regular holiday under Executive Order No. 203. For purposes of computation, said holiday, although still a rest day for them, is included in the ten regular holidays.

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

NOTE: In Region IX there are additional five (5) Muslim Holidays as provided under Title I, Book V of PD 1083 and supplemented by PD 1198, which are considered as regular holidays.

Rule III – Exemptions

Section 1. Exemption, Non-availability.

The exemptions previously granted to exemptible categories are no longer available under this Order considering that the Order merely provides for temporary or alternative relief to minimum wage earners.

Rule IV - Special Provisions

Section 1. Effects on Existing Wage Structure.

Should the application of the COLA results in distortion of the wage structure within the establishment, the employer and the union shall negotiate to correct the distortions through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred for voluntary arbitration.

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

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

Section 2. Complaints for Non-Compliance.

Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Article 128 and for recovery of wages, simple money claims and other benefits under Article 129 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 3. Conduct of Inspection by the Department.

The Department shall conduct inspections of establishments, as often as necessary, to determine whether the workers are paid the prescribed wage rates and/or COLA and other benefits granted by law or any Wage Order. In the conduct of inspection in unionized companies, Department inspectors shall always be accompanied by the president or other responsible officer of the recognized bargaining unit or of any interested union. In the case of non-unionized establishments, a worker representing the workers in the said company will accompany the inspector.

The workers' representative shall have the right to submit his own findings to the Department 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 this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and/or under any contract or agreement between the workers and the employers.

Section 5. Penal Provision.

Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed minimum wage rates and/or COLA in the Order shall be punished by a fine of not less than Twenty-five Thousand Pesos (P25,000.00) nor more than One Hundred Thousand Pesos (P100,000.00) or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court. Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees. Provided, that payment of indemnity shall not absolve the employer from criminal liability imposable under RA 8188.

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

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 Commission or Boards.

Section 7. Freedom to Bargain.

The Order shall not be construed to prevent workers in particular firms or enterprises or industries from bargaining for higher wages and/or COLA and flexible working arrangements with their respective employers.

Section 8. Reporting Requirements.

Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2003 and every year thereafter in accordance with the form prescribed by the Commission.

Section 9. Repealing Clause.

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

Section 10. Separability Clause.

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

Section 11. Effectivity of Rules.

This Rules shall take effect on March 16, 2002.

APPROVED: 21 February 2002, Zamboanga City, Philippines.

(SGD) ARSENIO L. GONZALEZ, JR. Member, Employers' Representative	(SGD) JOSE J. SUAN Member, Labor Representative
(SGD) EDGAR B. LIM Member, Employers' Representative	(VACANT) Member, Labor Representative
(SGD) RAFAEL G. EVANGELISTA, JR Vice-Chairman, NEDA	(SGD) NAZRULLAH B. MANZUR Vice-Chairman, DTI
(SGD) LOURDES M. TRASMONTE Chairman, DOLE	

APPROVED this 19th day of March 2002 APPROVED this 19th day of March 2002

(SGD) PATRICIA A. STO. TOMAS
Secretary