

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Regional Office No. IX
Zamboanga City

WAGE ORDER NO. RIX-02

PROVIDING FOR A PROVISIONAL EMERGENCY LIVING ALLOWANCE

WHEREAS, the recent increases in the price of oil and oil products has resulted in substantial increases in transportation fares as well as prices in basic goods and services;

WHEREAS, the increase provided for under Wage Order No. RIX-01 has been overtaken by the increase in oil prices in the Philippines in December, 1990;

WHEREAS, it is deemed necessary that workers in the private sector together with their families be provided immediate relief measures to enable them to cope with the rising cost of living, without, however, impairing the viability of business and industry;

WHEREAS, for the purpose of this Wage Order, the revised composition of the Western Mindanao Region (Region IX) is hereby adopted and shall include the provinces of Zamboanga del Sur, Zamboanga del Norte and Basilan; and the cities of Zamboanga, Pagadian, Dipolog, and Dapitan;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Western Mindanao Region (Region IX), hereby issues this Wage Order :

Section 1. Upon effectivity of this Wage Order, all employers in the private sector in Western Mindanao Region (Region IX) shall pay their workers and employees, who are receiving a minimum daily wage of not more than ONE HUNDRED THIRTY SIX PESOS (P 136.00), a provisional Emergency Cost Of Living Allowance (ELA) at the rate of TWO HUNDRED FIFTY PESOS (P250.00) a month for a period of three (3) months.

Section 2. The Emergency Cost of Living Allowance (ELA) granted under this Wage Order shall not be considered as part of the regular wage of the worker for the purposes of computing wage-related benefits, such as, 13th month pay, overtime and premium pay, night shift, differential pay as well as premium contributions to the State Insurance Fund, SSS, Medicare, Pag-IBIG, and others:

Section 3. Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

Establishments in the countryside and barangay business enterprises (CBBEs) duly registered pursuant to RA No. 6810 may be exempted from the applicability of this Wage Order upon application with and as determined by the Regional Board in accordance with the applicable rules and regulations. Whenever an application for exemption has been duly filed with the Regional Board, action on any complaints for alleged non-compliance with this Wage Order shall be deferred pending resolution of the application for the exemption by the Regional Board.

Distressed employers whose capital has been impaired by at least 25% during the preceding year may be exempted from this Wage Order upon application with and as determined by the Regional Board in accordance with the applicable rules and regulations.

In the event that the applications for exemptions are not granted, employees shall receive the compensation due them as provided for in this Wage Order plus interest of one (1) % per month, retroactive from the effectivity of this Wage Order.

Section 4. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed Emergency Living Allowance (ELA) of covered workers 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 prescribed allowance, the construction/service contractor shall be jointly and severally liable with the principal or client.

Section 5. All workers paid by results, including those who are paid on piecemeal work, takay, pakyaw, or task basis, shall be entitled to receive the prescribed daily ELA for 8 hours a day, or a proportion thereof for working less than eight (8) hours.

Section 6. The Regional Board shall prepare the necessary rules and regulations to implement this Wage Order, subject to the approval of the Secretary of Labor and Employment.

Section 7. Any employer who refuses or fails to pay the Emergency Living Allowance (ELA) under this Wage Order shall be subject to penalties specified under Republic Act No. 6727.

Section 8. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid. Nothing in this Wage Order shall be construed to reduce any existing wage rate, allowance, or other benefits under existing laws, decrees, issuances, executive orders and/or any contract of agreement between workers and employers.

Section 9. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the Region.

APPROVED : January 8, 1991

(SGD) FILAMER C. ALAESTANTE
Worker Representative

(SGD) ARSENIO L. GONZALEZ, JR.
Employer Representative

(SGD) VIVENCIO T. SAAGUNDO
Worker Representative

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(SGD) SOPHREMIANO B. ANTIPOLLO
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(SGD) HAKIM S. ABDULWAHID
Chairman

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RULES IMPLEMENTING WAGE ORDER NO. RIX-02

Pursuant to Section 5, Rule IV of the NWPC, Rules of Procedure on Minimum Wage Fixing and to the authority granted to the Regional Tripartite Wages and Productivity Board under Republic Act No. 6727, the following rules are hereby issued for the guidance and compliance by all concerned :

CHAPTER I - DEFINITION OF TERMS

Section 1. Definition of Terms - As used in this Rules.

- a) "Act" means Republic Act No. 6727;
- b) "Order" means Wage Order No. RIX-02;
- c) "Board" refers to the Regional Tripartite Wages and Productivity Board of Region IX;
- d) "Region IX" covers the Provinces of Zamboanga del Sur, Zamboanga del Norte and Basilan and includes the cities of Pagadian, Dipolog, Dapitan and Zamboanga;
- e) "Distressed Establishment" refers to establishments with capital impairment in the preceding year as may be determined by the Board;
- f) "Department" refers to the Department of Labor and Employment;
- g) "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 parts of or integrated into the regular salary of the workers on the date the Wage Order became effective.

CHAPTER II - EMERGENCY COST OF LIVING ALLOWANCE

Section 1. Coverage. - This chapter shall cover all workers of Region IX in the private sectors regardless of their position, designation or status, and irrespective of the method by which their wages are paid, including learners, apprentices and handicapped workers, except :

- a) Workers who are receiving the basic daily wage of P137.00 or more;
- b) Household or domestic helpers, including family drivers and workers in the personal service of another;
- c) Workers in distressed establishment when exempted by the Board;
- d) Workers in establishment duly registered pursuant to RA 6810 when exempted by the Board.

Section 2. Amount of Allowance - Effective January 26, 1991 up to April 26, 1991, the mandatory living allowance of the covered workers in the private sector shall be at the rate of P250.00 a month.

Section 3. Payment of Allowances - The allowances required by the Order shall be paid in cash together with the regular wage on the customary pay days.

Section 4. Special Features of the Allowances -

- a) Allowances granted to workers in compliance with the Order shall not be considered as part of the basic wage of the workers for purposes of determining 13th month pay, overtime and premium pay, night shift differential pay, fringe benefits and premium contributions to the State Insurance Fund, Social Security, Medicare, Pag-IBIG, Maternity Pay and Private Welfare and Retirement Plans.
- b) In lieu of the allowances prescribed in the Order, employers may grant wage increase which shall be considered as compliance with the Order, provided the amount is not less than what is required by the Order.

Section 5. Allowance for Unworked Days

- a) All covered workers shall be entitled to their living allowance in proportion to the day that they are paid their basic wage even if unworked.
- b) A worker on leave of absence but is receiving employee compensation, social security, or maternity benefits in lieu of wages, shall be entitled to the allowance provided in the Order, in proportion to such compensation or benefits if the establishment has not ceased operation; provided that such workers shall be paid the full allowance if paid the full daily basic wage.
- c) The allowance of part-time workers shall not be less than the amount in proportion to the time they actually worked.

Section 6. Workers Paid by Result. All workers paid by result, including those who are paid on piece work, takay, pakiao or task basis, and daily paid workers shall receive not less than the prescribed daily living allowance equivalent to the monthly rate divided by thirty (30) days for eight (8) hours a day, or a proportion thereof for working less than eight (8) hours a day.

CHAPTER III - COMMON PROVISIONS

Section 1. The payment of emergency cost of living allowance granted under the Order shall likewise be applicable to qualified workers and employees in private educational institutions, arrastre operators and similarly situated enterprises whose revenue is regulated by law. However, if immediate implementation of the wage order will seriously affect the cash flow of the private educational institution or regulated enterprise, it may request the Board for a deferment of the implementation of the Wage Order by filing a verified petition within ten (10) days from the effectivity of the Order.

The Board will hear the merit of the petition and shall issue the corresponding order if circumstances so warrant.

Section 2. Exemptions - Covered establishments may apply with the Board for exemption from compliance in the manner prescribed in Section 3 of the Order within ten (10) days from the effectivity thereof.

Section 3. Application to Contractors - In the case of contract for construction project and for security, janitorial and similar services, the prescribed emergency cost of living allowance of covered workers and employees 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, the principal or client fails to pay the prescribed allowance, the construction/service contractor shall be jointly and severally liable with the principal or client; provided that exemptions granted by the Board to the principal or client shall extend to their contractors with respect to workers of the latter assigned to the former.

Section 4. Effect of Wage Distortion - Where the application of the cost of living allowance prescribed herein result in distortion of the pay structures within an establishment, such distortion shall be resolved using the procedure specified under Article 124 of the Labor Code of the Philippines.

Section 5. 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 Articles 128 and 129 of the Labor Code, as amended.

Section 6. Conduct of Inspection by the Department - The Department shall conduct inspection of establishments to determine compliance of the Order in the manner prescribed in Section 9 of RA 6727.

Section 7. Non-Diminution of Benefits - Nothing in the Order and these Rules shall be construed as authorizing the reduction of any existing rates, allowances, and benefits of any form under existing laws, decrees, issuances, executive order, and/or under any contract or employer practices or policies.

Section 8. Penal Provision - Any covered employer who refuses or fails to pay the emergency cost of living allowance provided under this Order shall be subject to the penalties as specified under RA 6727.

Section 9. Effectivity - These Rules shall take effect on January 26, 1991.

Done in the City of Zamboanga, Philippines, this 9th day of January, 1991.

(SGD) FILAMER C. ALAESTANTE
Worker Representative

(SGD) ARSENIO L. GONZALEZ, JR.
Employer Representative

(SGD) VIVENCIO T. SAAGUNDO
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(SGD) SOPHPREMIANO B. ANTIPOLLO
Vice-Chairman

(SGD) NAZRULLAH B. MANZUR
Vice-Chairman

(SGD) HAKIM S. ABDULWAHID
Chairman

Approved this 28th day of January 1991.

(SGD) RUBEN D. TORRES
Secretary