

Republic of the Philippines
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Regional Board No. 09
Zamboanga City

**WAGE ORDER NO. RIX-04
PROVIDING FOR AN EMERGENCY LIVING ALLOWANCE**

WHEREAS, the increase provided for under Wage Order No. RIX-03 has been overtaken by the recent increase in the prices of basic commodities due to the EVAT and the rice crisis in the Philippines in 1995 may not still be contained because of the natural calamities;

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, the Board, motu proprio conducted public consultations in the different areas of Region-IX, as follows: Zamboanga City on November 4, 1995; Pagadian City and for the rest of the Province of Zamboanga del Sur on November 8, 1995; Dipolog City, including the City of Dapitan and the rest of the Province of Zamboanga del Norte on November 9, 1995; for the province of Basilan on November 13, 1995; and for the other sectors on November 17, 1995 and January 9, 1996, respectively;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act of 1989, the Regional Tripartite Wages and Productivity Board of Western Mindanao Region (Region IX), hereby issues this Wage Order :

Section 1. AMOUNT OF ELA AND COVERAGE.

(a) 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 FIFTY PESOS (P150.00), an Emergency Living Allowance (ELA) at the rate of THREE HUNDRED FIFTY PESOS (P350.00) a month for a period of two (2) months.

(b) The Emergency Living Allowance (ELA) granted under this Wage Order shall not be considered as part of the regular wage of the worker for the purpose 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 2. APPEAL TO THE COMMISSION.

(a) Appeal to the Commission. - Any party aggrieved by the Wage Order issued by the Board may file an appeal with the Commission within ten (10) calendar days from publication of the Order.

(b) Effect of Appeal. - The filing of the appeal shall not stay the effectivity of the Wage Order unless the party appealing the Order files with the Commission an undertaking with a surety or sureties in the amount as may be fixed by the Commission for payment to employees affected by the Order of the corresponding ELA, in the event the Wage Order is affirmed.

Section 3. EXEMPTIONS.

(a) Statutory Exemptions. - Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.

(b) Exemptions upon proper applications/petitions. - The following business establishments may be exempted from the applicability of this Wage Order upon application and as determined by the Board in accordance with the NWPC Revised Guidelines on Exemption, to wit:

- b.1 Retail/Service establishments regularly employing not more than ten (10) workers;
- b.2 Distressed establishments which meets the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines on Exemption;

Section 3.a. EFFECT OF EXEMPTION.

(3.a.1) Effect of Application for Exemption. - Whenever an application for exemption has been duly filed with the Regional Board, action on any complaint for alleged non-compliance with this Wage Order shall be deferred pending resolution of the application for exemption by the Board.

In the event that the application for exemption is not granted, employees shall receive the benefit due them as provided for in this Wage Order plus interest of one percent (1%) per month, retroactive from the effectivity of this Wage Order.

(3.a.2) Motion for Reconsideration. - The aggrieved party may file a motion for reconsideration of the decision of the Board denying the application for exemption within ten (10) calendar days from receipt of the decision/order.

Section 4. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. In the case of private educational institutions, compliance with the ELA shall be effective beginning school year 1996-97.

Section 5. APPLICATION TO CONTRACTORS. In the case of contract 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 6. APPLICATION TO INDUSTRIES WHOSE REVENUES ARE REGULATED BY LAW. Industries whose revenues are regulated by law (such as arrastre, transportation, utilities, etc.) shall be required to comply with the Wage Order immediately upon approval of an adjustment in their rates by the concerned government agency but not later than twelve (12) months from effectivity of this Order.

Section 7. WORKERS PAID BY RESULT, PIECEWORK/TASK BASIS AND SPECIAL GROUP OF WORKERS.

(a) All workers paid by results, including those who are paid on piecework, takay, pakyaw

or task basis, shall be entitled to receive the prescribed daily ELA for eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

(b) All recognized learnership and apprenticeship agreements shall be construed automatically modified in so far as the ELA.

Section 8. 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 9. PENAL PROVISION. Any employer who refuses or fails to pay the Emergency Living Allowance (ELA) under this Wage Order shall be subject to penalties specified under Section 12 of Republic Act No. 6727.

Section 10. IMPLEMENTING RULES AND REGULATIONS. 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 11. SEPARABILITY CLAUSE. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 12. EFFECTIVITY. This Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region and shall be implemented fifteen (15) days after the publication of the approved Implementing Rules and Regulations.

APPROVED: January 18, 1996, Zamboanga City.

(SGD) JOSE J. SUAN
Worker Representative

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

(SGD) WILFREDO A. MAGALLANES, SR.
Worker Representative

(VACANT)
Employer Representative

(SGD) RAFAEL G. EVANGELISTA, JR.
MANZUR
Vice-Chairman

(SGD) NAZRULLAH B.
Vice-Chairman

(SGD) LOURDES M. TRASMONTA
Chairman

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

RULES IMPLEMENTING WAGE ORDER NO. RIX-04

Pursuant to Section 5, Rule IV of the NWPC, Rules of Procedure on Minimum Wage Fixing and the authority granted to the Regional Tripartite Wages and Productivity Board under Republic Act No. 6727, otherwise known as Wage Rationalization Act of 1989, 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-04;
- 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) "Department" refers to the Department of Labor and Employment;
- f) "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;
- g) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines on Exemption;
- h) "Retail Establishment" is one principally engaged in the sale of goods to end-users for personal or household use;
- i) "Service Establishment" is one principally engaged in the sale of service to individuals for their own household use and is generally recognized as such;
- j) "Retail/service establishment regularly employing not more than ten (10) workers" refers to an establishment employing not more than ten (10) workers regardless of status, except the owner, for at least six (6) months in any calendar year.

CHAPTER II - EMERGENCY LIVING ALLOWANCE (ELA)

Section 1. Coverage. The emergency living allowance prescribed under the Order shall apply to all workers and employees in the private sectors in Region IX 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) Household or domestic helpers, including family drivers and workers in the personal service of another;
- b) Workers and employees in retail/service establishments regularly employing not more than ten (10) workers when exempted from compliance with the Order upon proper application;
- c) Workers and employees in distressed establishments as defined in paragraph (g), Section 1, Chapter I of this Rules, when exempted by the Board;
- d) Workers and employees who are receiving the basic daily wage of P151.00 or more;

Section 2. Amount and Duration of Allowance. Effective February 03, 1996 up to April 03, 1996, the emergency living allowance of the covered workers in the private sector shall be at the rate of THREE HUNDRED FIFTY PESOS (P350.00) a month.

Section 3. Payment of Allowance. The allowance prescribed in the Order shall be paid in cash together with the regular wage on the customary pay days.

Section 4. Special Features of the Allowance.

- a) Allowance 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 prescribed in 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.

CHAPTER III - COMMON PROVISIONS

Section 1. Appeal to the Commission.

(a) Appeal to the Commission. - Any party aggrieved by the Wage Order issued by the Board may appeal the Order to the Commission by filing a verified appeal with the Board in three (3) typewritten legible copies, not later than ten (10) calendar days from the date of publication of the Order. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof.

The Board shall serve notice of the appeal to concerned parties.

(b) Effect of Appeal. - The filing of the appeal does not operate to stay the Order unless the party appealing the Wage 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 increase, in the event the Order is affirmed.

Section 2. Exemptions.

2.1. Kinds of Exemptions:

- (a) Statutory Exemption. - Exempted from the provisions of this Wage Order are household or domestic helpers and persons in the personal service of another, including family drivers.
- (b) Exemptions Upon Proper Application/Petition. – The following business establishments may be exempted from the applicability of this Wage Order upon application and as determined by the Board in accordance with the NWPC Revised Guidelines on Exemption, to wit:
 - b.1 Retail/service establishment regularly employing not more than ten (10) workers;
 - b.2 Distressed establishment which meets the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines on Exemption;

2.2. Procedure/Effect of Application for Exemption.

(a) Where to file application. - Application for exemption must be filed with the Board in the region and must be supported with documents as prescribed under Section 2 (1) b of the NWPC Revised Guidelines on Exemption within sixty (60) calendar days from date of publication of this approved Rules.

(b) Effect of Application for Exemption. - Whenever an application for exemption has been duly filed with the Regional Board, action on any complaint for alleged non-compliance with the Order shall be deferred pending resolution of the application for exemption by the Regional Board.

In the event that an application for exemption is not granted, employees shall receive the living allowance due them as provided for in the Order plus simple interest of one percent (1%) per month retroactive to the effectivity of the Order.

(c) Duration and Extent of Exemption. - The Regional Board has the option whether to grant full or partial exemption to such distressed employer with respect to the amount and the period which shall not exceed two months from effectivity of the Order.

2.3. Motion for Reconsideration.

d.1 Motion for Reconsideration. - The aggrieved party may file a motion for reconsideration of the decision on the application for exemption within ten (10) calendar days from receipt thereof in two (2) typewritten copies and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office, together with all the supporting documents.

No second motion for reconsideration shall be entertained in any case. The decision/order of the Board shall be final unless appealed to the Commission not later than ten (10) days from receipt of the decision denying the motion for reconsideration.

2.4. Appeal to the Commission.

(a) Appeal. - Any party aggrieved by the decision of the Board may file an appeal to the Commission through the Board in two (2) typewritten legible copies, not later than ten (10) calendar days from the date of receipt of the decision.

The appeal, with proof of service to the other party, shall be accompanied with a memorandum of appeal which shall state the date appellant received the decision, the grounds relied upon and the arguments in support thereof.

It shall not be deemed perfected if it is filed with any other office or entity other than the Board.

(b) Grounds for Appeal. - An appeal may be filed on the following grounds:

1. Non-conformity with the prescribed guidelines and/or procedure on exemption;
 2. Prima facie evidence of grave abuse of discretion on the part of the Board;
 3. Questions of law.
- (c) Opposition. - The appellee may file with the Board his reply or opposition to the appeal within ten (10) calendar days from receipt thereof. Failure of the appellee to file his reply or opposition shall be construed as waiver on his part to file the same.

Section 3. Workers Paid by Results, Piecework/Task Basis and Special Group of Workers

- a) All workers paid by results, including those who are paid on piecework, takay, pakyaw or task basis, and daily paid workers shall receive not less than the prescribed daily living allowance equivalent to the monthly rate divided by twenty-six days (26) days for eight (8) hours a day, or a proportion thereof for working less than eight (8) hours a day.
- b) Emergency Living Allowance of apprentices, learners and handicapped workers shall in no case be less than seventy-five percent (75%) of the daily equivalent allowance as computed in the preceding paragraph.
- c) All recognized learnership and apprenticeship agreements entered into before the effectivity of this Wage Order shall be considered as automatically modified in so far as the ELA is concerned to reflect the prescribed allowance under the Order.

Section 4. Application to Private Educational Institutions. In the case of private educational institutions, compliance with the prescribed emergency living allowance shall be effective beginning school year 1996-97.

Section 5. Application to Industries whose Revenue Rates are Regulated by Law. Industries whose revenues are regulated by law (such as arrastre, transportation, utilities, etc.) shall be required to comply with the Order immediately upon approval of an adjustment in their rates by the concerned government agency but not later than twelve (12) months from effectivity of the Order.

Section 6. Application to Contractors. 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 principal or client of the contractors/service contractors and the contract shall be deemed amended accordingly.

In the event however, that the principal or clients fails to pay the prescribed wage rates, the construction/service contractor shall be jointly and severally liable with the principal or client to the employees to the extent of the work performed under the contract.

Exemption granted to a distressed principal or client shall extend and apply to its contractor in case of contract(s) for construction, security, janitorial and similar services with respect to the employees of the latter assigned to the former.

Section 7. Complaints for Non-compliance. Complaints for non-compliance with the emergency living allowance prescribed under 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(b) and 129 of the Labor Code, as amended.

Section 8. Conduct of Inspection by the Department. The Department of Labor and Employment shall conduct inspections of establishments, as often as necessary, to determine whether the workers are paid the prescribed emergency living allowance (ELA) and other benefits granted by law or by this Wage Order.

In the conduct of inspection of unionized establishments, 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 shall 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 9. Prohibition Against Injunction. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceeding before the Board.

Section 10. Penal Provisions. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increases or adjustments in the wage rates made in accordance with the Order shall be punished by a fine not exceeding P25,000.00 and/or imprisonment of not less than one (1) year nor more than two (2) years as provided under Section 12 of R.A. No. 6727:

Provided, that any person convicted under the Order shall not be entitled to the benefits provided for under the Probation Law.

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.

CHAPTER IV - TRANSITORY PROVISIONS

Section 1. Repealing Clause/Effects on other Issuances. All laws, issuances, rules and

regulation or parts thereof inconsistent with the provisions of the Order and this Rules are hereby repealed, amended or modified accordingly. If any provisions or part of the Order and this Rules, or the application thereof to any person or circumstances is held invalid or unconstitutional, the rest 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 2. Effectivity. This Rules as approved by the Secretary of Labor and Employment shall take effect fifteen (15) days after its publication * in at least one (1) newspaper of general circulation in the region.

Done in the City of Zamboanga, Philippines, this 18th day of January, 1996.

(SGD) JOSE J. SUAN
Worker Representative

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

(SGD) WILFREDO A. MAGALLANES, SR.
Worker Representative

(VACANT)
Employer Representative

(SGD) RAFAEL G. EVANGELISTA, JR.
MANZUR
Vice-Chairman

(SGD) NAZRULLAH B.
Vice-Chairman

(SGD) LOURDES M. TRASMONTA
Chairman

APPROVED this 14th day of February 1996.

(SGD) LEONARDO A. QUISUMBING
Secretary

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-04-A
PROVIDING FOR AN EXTENSION OF EMERGENCY
LIVING ALLOWANCE SUPPLEMENTING WAGE ORDER NO. RIX-04

WHEREAS, the emergency living allowance provided under Wage Order No. RIX-04 will expire on April 03, 1996, and considering that the Board still needs time to fully evaluate and analyze the economic conditions of the region due to the increases in the prices of basic commodities due to the EVAT, oil price increases and the rice crisis in the Philippines;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act of 1989, the Regional Tripartite Wages and Productivity Board of Western Mindanao Region (Region IX), hereby issues this Supplement to Wage Order RIX-04.

Section 1. AMOUNT OF ELA AND COVERAGE.

Upon effectivity of this Supplemental Wage Order, all employers in the private sector in Western Mindanao Region (Region IX) shall pay their workers and employees, who are receiving a daily wage of not more than ONE HUNDRED FIFTY PESOS (P150.00) an emergency living allowance at the rate of THREE HUNDRED FIFTY PESOS (P350.00) for another month from April 04, 1996 to May 04, 1996.

Section 2. This Supplemental Wage Order shall be governed by all provisions under Wage Order No. RIX-04.

Section 3. EFFECTIVITY. This Supplemental Wage Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region and shall be implemented fifteen (15) days after the publication of the duly approved Supplemental Implementing Rules and Regulations.

APPROVED: 11 March 1996, Zamboanga City.

(Absent)
JOSE J. SUAN
Worker Representative

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

(SGD) WILFREDO A. MAGALLANES, SR.
Worker Representative

(VACANT)
Employer Representative

(SGD) RAFAEL G. EVANGELISTA, JR.
MANZUR
Vice-Chairman

(SGD) NAZRULLAH B.
Vice-Chairman

(SGD) LOURDES M. TRASMONTE
Chairman

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

RULES IMPLEMENTING SUPPLEMENTAL WAGE ORDER NO. RIX-04-A

Pursuant to Section 5, Rule IV of the NWPC, Rules of Procedure on Minimum Wage Fixing and the authority granted to the Regional Tripartite Wages and Productivity Board under Republic Act No. 6727, otherwise known as Wage Rationalization Act of 1989, the following supplemental 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) "Supplemental Order" means Wage Order No. RIX-04-A;
- 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) "Department" refers to the Department of Labor and Employment;
- f) "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;
- g) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3 (3) of the NWPC Revised Guidelines on Exemption;
- h) "Retail/service establishment regularly employing not more than ten (10) workers" refers to an establishment employing not more than ten (10) workers regardless of status, except the owner, for at least six (6) months in any calendar year.
- i) "Retail establishment" is one principally engaged in the sale of goods to end-users for personal use or household use;
- j) "Service establishment" is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such.

CHAPTER II - SUPPLEMENTAL PROVISION

Section 1. All the provisions of the Rules Implementing Wage Order No. RIX-04 shall remain valid and subsisting, except for the following section which is supplemented, to read as follows:

Section 2. Amount and Duration of Allowance. Effective February 3, 1996 to April 3, 1996, the emergency living allowance of the covered workers in the private sector shall be THREE HUNDRED FIFTY PESOS (P350.00) a month.

The ELA shall be extended for another month and shall be effective from April 04, 1996 to May 04, 1996.

Section 3. Effectivity. This Rules as approved by the Secretary of Labor and Employment shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in the region.

Done in the City of Zamboanga, Philippines, this 11th day of March, 1996.

(Absent)

(SGD) JOSE J. SUAN
Worker Representative

(SGD) ARSENIO L. GONZALES, JR
Employer Representative

(SGD) WILFREDO A. MAGALLANES, SR.
Worker Representative

(VACANT)
Employer Representative

(SGD) RAFAEL G. EVANGELISTA, JR.
Vice-Chairman

(SGD) NAZRULLAH B. MANSUR
Vice-Chairman

(SGD) LOURDES M. TRASMONTA
Chairman

APPROVED this 2nd day of April 1996.

(SGD) LEONARDO A. QUISUMBING
Secretary of Labor and NWPC Chairman