

Republic of the Philippines
Department of Labor and Employment
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES & PRODUCTIVITY BOARD-REGION XI
Davao City

WAGE ORDER NO. RTWPB-XI-02
PROVIDING FOR AN EMERGENCY ASSISTANCE TO WORKERS IN THE PRIVATE SECTOR

WHEREAS, a petition has been filed on December 20, 1990 by the Associated Labor Union-Trade Union Congress of the Philippines Region XI (ALU-TUCP-XI) seeking for an increase in the daily statutory minimum wage by P30 for workers/employees receiving less than P400/day in Region XI, for the reason that the December 5, 1990 fuel price increase made it imperative to review and adjust existing wage levels in the light of the increases in the prices of basic commodities and services;

WHEREAS, the Regional Board agree that remedial and countervailing measures must be undertaken to minimize the economic difficulties the workers are experiencing without losing sight of similar difficulties being felt by business sectors;

NOW, THEREFORE, by virtue of the power and authority vested under RA 6727 otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board Region XI hereby issues this Wage Order;

Section 1. Upon the effectivity of this Wage Order, all private employers in all of Region XI, irrespective of capitalization, nature of business, number of employees and status of employment shall for a period of three (3) months, provide their workers/employees an emergency assistance in cash or in kind equivalent to eight percent (8%) of the applicable minimum wage; however, any wage increase and/or allowance, exclusive of those mandated by Wage Orders and by Collective Bargaining Agreements in any form, granted unilaterally by employers after November 21, 1990 shall be credited as compliance to this Wage Order;

FURTHER, all covered employers are hereby reminded of the request of labor not to retrench, correspondingly, employees are reminded of the request of employers not to go on strike rather engage in productivity projects or income generating projects; Except for those retrenchment and strike(s) whose notices were filed prior to the effectivity of this Wage Order No. RTWPB-XI-02;

FURTHERMORE, employers and employees are enjoined to organize and or activate their respective LABOR MANAGEMENT COUNCIL's to monitor compliance of Wage Orders by management and to submit monthly reports to the Regional Board;

Section 2. That the amount of such emergency assistance shall not be less than eight percent (8%) of the applicable minimum wage established in Wage Order No. RTWPB-XI-01;

Section 3. That the emergency assistance mandated under this Wage Order shall apply to all types of workers except the following:

- a) Workers who are members of the family of the employer but dependent upon the latter for support;
- b) Household and or domestic helpers;
- c) Persons in the personal service of another;

Section 4. Distressed employers whose capital has been impaired by at least twenty-five percent (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. However, in the event that applications for exemption are not granted, workers/employees shall receive the emergency assistance due them as provided for in this Wage Order plus interest of one percent (1%) per month retroactive to the effectivity of this Wage Order;

Section 5. That the emergency assistance granted herein shall not be considered part of the regular wage of the workers for purposes of computing wage related benefits such as 13th month pay, overtime pay, premium pay, night shift differential pay, state insurance fund, Medicare, PAG-IBIG, and others;

Section 6. Any employer who fails to provide and or pay, or refuses to comply with this Wage Order shall be subject to the penalties specified under Section 12 of RA 6727 and the Labor Code as amended;

Section 7. If any provision or part of this Wage Order is declared unconstitutional or illegal, the other provisions or parts thereof shall remain valid. Nothing in this Order shall be construed to reduce any existing wage rate, allowance or other benefit granted under existing laws, decrees, issuances, executive orders and/or contract or agreement by and between workers and their employers;

Section 8. 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 9. This Wage Order shall take effect on February 15, 1991 until May 15, 1991;

A P P R O V E D, January 29, 1991.

(SGD) MRS. FLORENCIA P. CABATINGAN
Member, Labor Sector

(SGD) MRS. VIRGINIA T. CAMUS
Member, Labor Sector

Dissenting as to amount and coverage
(SGD) MR. TELESFORO O. ZOSA
Member, Management Sector

Dissenting as to amount and coverage
(SGD) MR. AURELIO C. REGINALDO
Member, Management Sector

(SGD) DIR. SANTIAGO G. ENGINCO, JR.
Vice-Chairman
Government Sector

Out of town, on official business
DIR. SYVELYN J. TAN
Vice-Chairman
Government Sector

(SGD) ATTY. HENRY M. PAREL
Chairman
Government Sector

Approved: February _ 1991

(SGD) RUBEN D. TORRES
Secretary of Labor and Employment

Republic of the Philippines
Department of Labor and Employment
NATIONAL WAGES AND PRODUCTIVITY COMMISSION
REGIONAL TRIPARTITE WAGES & PRODUCTIVITY BOARD-REGION XI
Regional Office No. XI, Davao City

RULES AND REGULATIONS IMPLEMENTING WAGE ORDER RTWPB-XI-02

Pursuant to Section 8 of Wage Order RTWPB-XI-02 promulgated by the Regional Board on 29 January, 1991, the following rules, regulations/or implementing guidelines are hereby issued for strict compliance by all concerned:

SECTION 1. Definition of Terms - as used in this Rules:

- a) "REGIONAL BOARD" shall mean the Regional Tripartite Wages and Productivity Board of Region XI;
- b) "REGION XI" shall cover Davao City, Davao del Sur Davao Oriental, Davao del Norte, Surigao del Sur, South Cotabato and General Santos City;
- c) "WAGE ORDER" means Wage Order No. RTWPB-XI-02 dated 29 January, 1991 and signed by the members of the Regional Board;
- d) "APPLICABLE MINIMUM WAGE" means the statutory minimum wage established in Wage Order No. RTWPB-XI-01 promulgated October 30, 1990 which took effect November 21,1990;
- e) "WAGE ORDER NO. RTWPB-XI-01" refers to the Wage Order promulgated by the Regional Board on October 30, 1990 which provided for a new statutory minimum wage as enumerated in its implementing guidelines;
- f) "DISTRESSED ESTABLISHMENT" refers to an establishment with capital impairment of at least twenty five percent (25%) during the preceding year as maybe determined by the Regional Board;
- g) "LABOR MANAGEMENT COUNCIL" refers to an arrangement voluntarily entered into by Labor and Management at various level of the enterprises to enhance cooperation through the principle of shared responsibility and to serve as forum to address jointly matters of mutual concern and interest, its creation being mandated under Book V of the Labor Code and strengthened by R.A. 6715;
- h) "DOMESTIC OR HOUSEHOLD HELPER" shall mean workers who minister strictly to the personal needs of their employer including family drivers;
- i) "ORGANIZED/UNIONIZED ESTABLISHMENT" refers to an establishment with an existing/and or recognized bargaining representative/employees union;
- j) "UNORGANIZED/NON-UNIONIZED ESTABLISHMENT" refers to establishment with no existing/and or recognized bargaining representative/employees union;

SECTION 2. Coverage. The emergency assistance prescribed under the Wage Order shall apply to workers and employees in the private sector in all of Region XI regardless of their

position, designation, status, and irrespective of the method by which their wages are paid including apprentices and learners, EXCEPT:

- a) Workers who are members of the family of the employer but dependent upon the latter for support;
- b) Household and or domestic helpers;
- c) Persons in the personal service of another;
- d) Workers and employees of distressed establishment when exempted by the Regional Board;

SECTION 3. Effectivity. The Wage Order takes effect on February 15, 1991 until May 15, 1991, fifteen (15) days following its complete publication in one (1) newspaper of regional circulation on January 31, 1991 pursuant to Section 9 thereof;

SECTION 4. Amount of Emergency Assistance in Cash or in Kind. Effective February 15, 1991 the emergency assistance in cash or in kind of covered workers and employees shall be equivalent to eight percent (8%) of the applicable daily minimum wage by sector/industry/locality as established in the rules implementing Wage Order RTWPB-XI-01 which took effect November 21, 1990 as follows:

SECTOR/INDUSTRY	<u>DVO CITY</u> <u>GENERAL</u> <u>SANTOS</u>	<u>DVO. PROV</u> <u>DVO. SUR</u> <u>SOUTH COT.</u>	<u>DVO OR.</u>	<u>SURIGAO</u> <u>DEL SUR</u>
NON-AGRICULTURE (Industrial/Commercial)	P104.00 (P8.32)	P102.00 (P8.16)	P100.00 (P8.00)	P99.00 (P7.92)
AGRICULTURE				
Plantation (i.e., more than 24 has. or employing at least 20 workers) with Annual Gross Sales of P5M or more	94.00 (7.52)	92.00 (7.36)	90.00 (7.20)	89.00 (7.12)
Plantation with Annual Gross Sales of less than P 5M	89.00 (7.12)	87.00 (6.96)	85.00 (6.80)	84.00 (6.72)
Non-Plantation	73.50 (5.88)	71.50 (5.72)	69.50 (5.56)	68.50 (5.48)
COTTAGE/HANDICRAFT				
Employing more than 30 workers	82.00 (6.56)	80.00 (6.40)	78.00 (6.24)	77.00 (6.16)
Employing not more than 30 workers	80.00 (6.40)	78.00 (6.24)	76.00 (6.08)	75.00 (6.00)

() equivalent 8% of applicable minimum wage

SECTOR/INDUSTRY	<u>DVO CITY</u> <u>GENERAL</u> <u>SANTOS</u>	<u>DVO.</u> <u>PROV</u> <u>DVO. SUR</u> <u>SOUTH</u> <u>COT.</u>	<u>DVO OR.</u>	<u>SURIGAO</u> <u>DEL SUR</u>
PRIVATE HOSPITALS	100.00 (8.00)	98.00 (7.84)	96.00 (7.68)	95.00 (7.60)
RETAIL/SERVICE Cities with population of more than				

150,000				
Employing more than 15 workers	104.00 (8.32)	102.00 (8.16)	100.00 (8.00)	99.00 (7.92)
Employing 11-15 workers	100.00 (8.00)	98.00 (7.84)	96.00 (7.68)	95.00 (7.60)
Employing not more than 10 workers	73.00 (5.84)	71.00 (5.68)	69.00 (5.52)	68.00 (5.44)
Municipalities and Cities with population of not more than 150,000				
Employing more than 10 workers	100.00 (8.00)	98.00 (7.84)	96.00 (7.68)	95.00 (7.60)
Employing not more than 10 workers	73.00 (5.84)	71.00 (5.68)	69.00 (5.52)	68.00 (5.44)
SUGAR Mills				
(P91.33 for mills that have integrated into the basic wage the P10.00 COLA under LOI 1016)	106.00 (8.48)	104.00 (8.32)	102.00 (8.16)	101.00 (8.08)
AGRICULTURE (Sugar)				
Plantation with annual gross sales of P5M or more	88.50 (7.08)	86.50 (6.92)	84.50 (6.76)	83.50 (6.68)
Plantation with annual gross sales of less than P5M	83.50 (6.68)	81.50 (6.52)	79.50 (6.36)	78.50 (6.28)
Non-Plantation	73.50 (5.88)	71.50 (5.72)	69.50 (5.56)	68.50 (5.48)
BUSINESS ENTERPRISES WITH CAPITALIZATION OF NOT MORE THAN P500,000.00 AND EMPLOYING NOT MORE THAN 20 WORKERS				
Non-Agriculture	94.00 (7.52)	92.00 (7.36)	90.00 (7.20)	89.00 (7.12)
Agriculture Plantation with products other than sugar	84.00 (6.72)	82.00 (6.56)	80.00 (6.40)	79.00 (6.32)
Sugar	78.50 (6.28)	76.50 (6.12)	74.50 (5.96)	73.50 (5.88)
Private Hospitals	90.00 (7.20)	88.00 (7.04)	86.00 (6.88)	85.00 (6.80)
RETAIL/SERVICE				
Cities w/ population of more than 150,000				
Employing more than 15 workers	94.00 (7.52)	92.00 (7.36)	90.00 (7.20)	89.00 (7.12)
Employing 11 to 15 workers	90.00 (7.20)	88.00 (7.04)	86.00 (6.88)	85.00 (6.80)
MUNICIPALITIES AND CITIES WITH POPULATION OF NOT MORE THAN 150,000				
Employing more than 10 workers	90.00 (7.20)	88.00 (7.04)	86.00 (6.88)	85.00 (6.80)

() equivalent 8% of applicable minimum wage

This is a mandatory across the board emergency assistance. Hence, establishments paying more than the minimum statutory wage will only compute the eight percent (8%) based on the applicable minimum wage per sector/industry/locality as established in the implementing guidelines of Wage Order No. RTWPB-XI-01.

Illustrations: Company "A" is paying a daily minimum wage of P130.00 located in Davao City, the emergency assistance provided herein will be computed this way (P104.00 x 8%) = P8.32/day. This is so because the applicable minimum wage in Davao City for non-agriculture is P104.00. Company "B" an agricultural outfit classified as non-plantation located in Davao Oriental and is paying its employees P90.00/day. The applicable minimum wage is only P69.50, thus, the computation is 8% of P69.50 which is P5.56.

Compliance may be in cash or in kind which includes but not limited to the following schemes:

- a) rice assistance;
- b) meat, fish, vegetables and other commodities;
- c) school supplies, clothing, shoes and the like for workers and/or their dependents;

Provided that the value is not lower than the prescribed eight percent (8%) of the applicable minimum wage rate and provided further that the giving is with the agreement of the employees after a Labor Management Council (LMC) Meeting;

SECTION 5. Suggested Formula in Determining the Monthly Emergency Assistance. Without prejudice to existing company practices, agreements, or policies, the formula adopted in Section 6, Chapter 1 of the rules implementing RA 6727 maybe used as guide as follows:

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

$$\text{EMEA} = \frac{\text{Applicable daily minimum wage} \times 390.90 \text{ days} \times .08}{12}$$

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

$$\text{EMEA} = \frac{\text{Applicable daily minimum wage} \times 365 \text{ days} \times .08}{12}$$

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

$$\text{EMEA} = \frac{\text{Applicable daily minimum wage} \times 314 \text{ days} \times .08}{12}$$

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

$$\text{EMEA} = \frac{\text{Applicable daily minimum wage} \times 262 \text{ days} \times .08}{12}$$

SECTION 6. Basis of Emergency Assistance. The emergency assistance rates prescribed under the Wage Order shall be for the normal working hours, which shall not exceed 8 hours work a day, or a proportion thereof for working less than eight (8) hours. However, employees on leave with pay are entitled to the same;

SECTION 7. Creditable Wage Increase/Allowance/Assistance.

a) Any wage increase/allowance/assistance granted unilaterally by employers after November 21, 1990 exclusive of those mandated by RA 6727, Wage Order No. RTWPB-XI-01 and by Collective Bargaining Agreement(s) shall be credited as compliance. However, where the wage increase/allowance/assistance is less than the prescribed emergency assistance under the Wage Order, the employer shall pay the difference.

b) Anniversary wage Increase provided in collective agreements, merit wage Increase, and those resulting from the regularization or promotion of employees shall not be credited as compliance thereto;

SECTION 8. Workers Paid By Results. All workers paid by results including those who are paid on piece work, takay, pakyaw, or task basis, shall receive the emergency allowance on top of their daily wage rates provided the former shall have rendered eight (8) hours of work per day, or a proportion thereof for work less than the normal working hours;

SECTION 9. Emergency Assistance of Special Group of Workers. Emergency assistance of apprentices, learners and handicapped workers shall likewise be 8% of the applicable minimum wage. All recognized learnership and apprenticeship agreements entered into shall be considered automatically modified to reflect the emergency assistance prescribed under the Wage Order;

SECTION 10. Application to Contractor. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed emergency assistance 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 emergency assistance, the construction/service contractor shall be jointly and severally liable with his principal or client;

SECTION 11. Application to Private Educational Institutions. The emergency assistance prescribed under the Wage Order shall apply to all workers and employees and maybe paid as soon as these institutions have been granted authority to increase tuition fees;

SECTION 12. Emergency Assistance Not Considered Part of the Regular Wage. The Emergency Assistance prescribed in the Wage Order shall not be considered part of the regular wage of the worker(s) for purposes of computing wage related benefits such as 13th month pay, overtime pay, premium pay, night shift differential pay, state insurance fund, Medicare, Pag-IBIG and others. Emergency Assistance paid in kind shall not be subject to withholding tax as it is of relatively small value and is furnished by the employer as a means of promoting the health, goodwill, contentment or efficiency of the employees in accordance with Revenue Regulations No. 12-86; likewise, said emergency assistance shall be considered an allowable ordinary and necessary business expense in computing taxable income of employees in accordance with Section 29(a)(1) of the National Internal Revenue Code;

SECTION 13. Mobile and Branch Workers. The emergency assistance rates of workers, who by the nature of their work have to travel, shall be those applicable in the domicile or head office of the employer. The emergency assistance rates of workers working in branches or agencies shall be those applicable in the place where they are stationed.

SECTION 14. Transfer of Personnel. The transfer of personnel to other areas within Region XI shall not be a valid ground for the reduction of emergency assistance being enjoyed by the workers prior to such transfer.

SECTION 15. Exempted Establishment(s).

Distressed establishments whose capital have been impaired by at least twenty-five percent (25%) during the preceding year upon application with and as determined by the Regional Board, maybe exempted from the Wage Order. However, applications for exemptions must be filed not later than 28 of February, 1991; otherwise, the same will not be entertained by the Regional Board;

Establishments who have filed exemptions under Wage Order No. RTWPB-XI-01 whose applications are still pending/unresolved will compute the emergency assistance based on the applicable minimum wage by sector/industry established in Wage Order No. RTWPB-XI-01; In the event of denial, the employer shall pay the difference based on the applicable minimum wage established in Wage Order RTWPB-XI-01 plus interest of one percent (1%) per month, retroactive from the effectivity of the Wage Order;

Whenever an application for exemption has been duly filed with the Regional Board, action by the Regional Office-XI of the Department of Labor and Employment on any complaint for alleged non-compliance with the Wage Order shall be deferred pending resolution of the application for exemption;

In the event that the application for exemption is not granted, the workers and employees shall receive the appropriate emergency assistance due them as provided for under the Wage Order plus interest of one percent (1%) per month retroactive to February 15, 1991;

SECTION 16. Complaints for Non-Compliance. Complaints for non-compliance with the emergency assistance prescribed under the Wage Order shall be filed with the Labor Standards & Enforcement Division of Regional Office - XI of the Department of Labor and Employment and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended;

SECTION 17. Conduct of Inspection by the DOLE -XI Regional Office. The Regional Office-XI of 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 assistance prescribed under the Wage Order, wage rates and other benefits granted by law or any other Wage Order(s). In the conduct of inspection in non-unionized/unorganized companies, DOLE-XI inspectors shall always be accompanied by a worker representing the workers.

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

SECTION 18. Reporting of Compliance Required by Labor Management Council(s). All covered employers through their Labor Management Council(s) shall report to the Regional Board monthly compliance by management of the Wage Order and other Wage Orders. All establishments in all of Region XI whether organized and/or unorganized are hereby enjoined/ordered to organize and/or activate their respective Labor Management Council(s) for this purpose.

SECTION 19. Reminder Not to Retrench/Not to go on Strike. All covered employers are hereby reminded of the request of labor not to retrench, correspondingly, employees are reminded of the request of employers not to go on strike rather engage in productivity projects/or income

generating projects; EXCEPT: for those retrenchment notices and the corresponding termination served, and strike(s) whose notices were filed prior to the effectivity of the Wage Order;

SECTION 20. Relations to Other Agreements and Issuances. Nothing in this Wage Order and in the Rules shall be construed to allow withdrawal or reductions of any existing allowances, bonuses and other fringe benefits provided under existing laws, decrees, wage orders or other issuances, or employer's practices or policies, nor prevent employers from granting Emergency Assistance to their employees in excess of those provided herein. However, upon withdrawal of the emergency assistance by May 15, 1991 the same shall not be construed as a diminution of existing benefits in contemplation of labor laws;

SECTION 21. Effects on Other Issuances. The provisions of existing laws on wages and their implementing rules and guidelines shall continue to have full force and effect. However disputes on exemptions/or wage distortions by virtue of any Wage Order(s) issued by the Regional Board involving organized/unionized establishments shall be referred to/or settled in the Grievance Machinery. In cases involving unorganized/or non-unionized establishments, wage distortion issues must be filed before the NCMB-XI for conciliation purposes and in case of deadlock within 10 days from filing the matter shall be referred to the NLRC-RAB-XI for disposition. Applications for exemptions shall still be filed before the Regional Board;

SECTION 22. Effectivity of this Rules. This rules shall take effect upon approval by the Secretary of Labor and Employment;

Done in the City of Davao, Philippines, this 8th day of February 1991.

I S S U E D, February 8, 1991.

(SGD) MRS. FLORENCIA P. CABATINGAN
Member, Labor Sector

Dissented as to Section XI
(SGD) MRS. VIRGINIA T. CAMUS
Member, Labor Sector

(SGD) MR. TELESFORO O. ZOSA
Member, Management Sector

(SGD) MR. AURELIO C. REGINALDO
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(SGD) DIR. SANTIAGO G. ENGINCO, JR.
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Chairman
Government Sector
DOLE Regional Director

Approved: February 27, 1991

(SGD) RUBEN D. TORRES
Secretary of Labor and Employment