

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

WAGE ORDER NO. RTWPB-XI-03
Providing for a Cost of Living Allowance (COLA) to the Workers in the Private Sector

WHEREAS; Pursuant to its mandate to periodically review the present minimum wage levels, the Regional Tripartite Wages and Productivity Board of Region XI (RTWPB-XI) had conducted public consultations on wages last September 10, 1993 in General Santos City, September 16, 1993 in Davao City and September 24, 1993 in Tagum, Davao del Norte.

WHEREAS; Based on the consultations conducted, a felt need to somehow restore the purchasing power of the peso through the adjustment of the worker's compensation is prevalent;

WHEREAS; Based on the 1988 price level, the real wage in Region XI as of August 1993 is only 68.41% which means that the purchasing power of the peso has been eroded by 31.59%;

WHEREAS; It is necessary to provide workers and their families with immediate relief measures to enable them to cope with the rising cost of living without impairing the viability of business and industry at the same time controlling within tolerable limits the unemployment rate considering the varying economic and living conditions in the region and preserving the favorable investment climate;

NOW, THEREFORE, by virtue of the power and authority vested under RA 6727 known as the Wage Rationalization Act of 1990, the Regional Tripartite Wages and Productivity Board of Region XI hereby issues this Wage Order:

SECTION 1. A Cost of Living Allowance (COLA) of Twenty-five (P 25.00) per day shall be provided to all workers and employees in the region employed in the private sector whether agriculture or non-agriculture receiving a daily wage of not more than One Hundred Fifty Pesos (P150.00). This Wage Order is effective on December 1, 1993 to November 30, 1994, provided that the RTWPB-XI shall periodically assess the effects thereof for the purpose of modifying the same should it be deemed necessary. However, should the Board fail to modify this Wage Order within the said period of one (1) year, then the same shall remain in full force and effect.

SECTION 2. The COLA of twenty-five pesos (P 25.00) prescribed under section 1 hereof shall apply to all workers and employees entitled to the same in private educational institutions as soon as they have increased or have been granted authority to increase their tuition fees during school year 1993-1994. Otherwise, such increases shall be so applicable not later than the opening of the next school year beginning 1994.

SECTION 3. Exemptions. (A) Automatic 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) Upon Proper Application. The following establishments may be exempted from the applicability of this Wage Order upon application with the RTWPB-XI in accordance with the applicable rules and regulations, to wit:

B.1 Retail/Service establishments.

B.2 Establishments which suffered substantial losses last year and/or which are suffering losses this year.

B.3 Non-stock and non-profit institutions, like hospitals, asylum, orphanages, schools and similar institutions.

B.4 New Business Enterprises (NBEs) established in Region XI whose operation or investments need initial assistance.

B.5 Countryside Barangay Business Establishments (CBBEs) that may be established in Region XI.

C. Duration of 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 Regional Board. The Regional Board has the option whether to grant FULL or PARTIAL EXEMPTION to such establishments. The duration shall be for a maximum period of one (1) year only;

In the event the application for exemption is not granted, the employees in such establishments shall be paid the appropriate compensation 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 4. In the case of contracts for construction projects, security, janitorial and similar services allowable by the Labor Code, as amended the prescribed COLA 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 increase the construction/service contractor shall be jointly and severally liable with the principal or client.

SECTION 5. All workers paid by result, 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 6. Where the application of the prescribed COLA under this Wage Order results in distortions of the wage structure within an establishment, such distortion shall be corrected using the procedure as specified under Article 124 of the Labor Code of the Philippines as amended.

SECTION 7. Any employer who refuses or fails to pay the COLA prescribed under this Wage Order shall be subject to the penalties specified under RA 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 benefit under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between workers and employers.

SECTION 9. The Regional Tripartite Wages and Productivity Board-XI (RTWPB-XI) shall promulgate the necessary rules and regulations to implement the provisions of this Wage Order.

SECTION 10. This Wage Order shall take effect on December 1, 1993 or 15 days following its complete publication in at least one (1) newspaper of general circulation in Region XI.

Approved 22 October 1993, Davao City, Philippines.

(SGD) MR. JORGE G. ALEGARBES
Labor Representative
Member, RTWPB-XI

(SGD) MRS. VIRGINIA T. CAMUS
Labor Representative
Member, RTWPB-XI

(SGD) ENGR. PEDRO E. TORRES
Management Representative
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(SGD) ATTY. ELIEZER C. TANLAPCO
Management Representative
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DIR. SANTIAGO G. ENGINCO
Vice-Chairman
NEDA-XI Regional Director

(SGD) ENGR. MERLY M. CRUZ
Vice-Chairman
DTI-XI Regional Director

(SGD) ATTY. HENRY M. PAREL
Board Chairman
DOLE-XI Regional Director

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Davao City

RULES AND REGULATIONS IMPLEMENTING WAGE ORDER NO. RTWPB-XI-03

Pursuant to Section 9 of Wage Order No. RTWPB-XI-03, the following rules and regulations are hereby issued for the guidance and compliance of all concerned

CHAPTER I - DEFINITION OF TERMS

SECTION 1. Definition of Terms. - As used in these Rules.

(a) "WAGE ORDER" means Wage Order No. RTWPB-XI-03 approved and signed by the members of the Regional Board.

(b) "COMMISSION" means the National Wages and Productivity Commission.

(c) "REGIONAL BOARD/RTWPB-XI" means the Regional Tripartite Wages and Productivity Board-XI.

(d) "DEPARTMENT" means the Department of Labor and Employment.

(e) "REGION-XI" covers the cities of Davao and General Santos and the provinces of Davao del Sur, Davao del Norte, Davao Oriental, South Cotabato, Sarangani, and Surigao del Sur.

(f) "BASIC WAGE" means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days but does not include overtime pay, cost of living allowances, profit-sharing payments, premium payment, 13th month pay and other monetary benefits which are not considered as part of or integrated into a regular salary of the worker on the date the Wage Order becomes effective. However, basic wage includes the fair and reasonable value, as determined by the Secretary of Labor and Employment, of board, lodging, or other facilities customarily furnished by the employer to the employee. "Fair and reasonable value" shall not include any profit to the employer or to any person affiliated with the employer.

(g) "ALLOWANCE" is the amount granted to an employee which is not considered as part of or integrated into the regular salary of the worker on the date the Wage Order becomes effective.

(h) "SALARY CEILING" refers to the basic salary and not to gross salary.

(i) "DOMESTIC OR HOUSEHOLD HELPERS", including family drivers are those who minister strictly to the personal needs/service of the employer.

(j) "RETAIL ESTABLISHMENT" is one open to the general consuming public for the sale of goods to end-users for personal or household use and is characterized by small sales excluding those for distribution or resale;

(k) "SERVICE ESTABLISHMENT" is one engaged predominantly in the sale of services to individuals for their own household use and is generally recognized as such;

(l) "AGRICULTURE" includes farming in all its branches and among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, horticultural commodities and aqua-marine products, the raising of livestock or poultry, and any activities performed by a farmer or a farm as an incident to or in conjunction with such farming operations, but does not include the manufacturing or processing of sugar, coconut, abaca, tobacco, pineapple or other farm products. The term processing or manufacturing includes any work on raw or crude products or materials which may change them in form beyond the raw or still crude state to that form which is necessary or customary to prepare them for handling for market or export.

(m) "PLANTATION AGRICULTURAL WORKERS" are those agricultural workers employed in any plantation or agricultural establishment with an area of more than twenty-four (24) hectares in a locality or which employs at least twenty (20) workers. All other agricultural workers are considered non-plantation agricultural workers.

(n) "INDUSTRY" refers to a trade, business or a sector thereof, or group or businesses in similar or allied activities in which individuals are gainfully employed.

(o) "NEW BUSINESS ESTABLISHMENTS" are establishments that started its operations not beyond the two (2) year period immediately preceding the effectivity of the Wage Order.

(p) "COUNTRYSIDE BARANGAY BUSINESS ESTABLISHMENT", shall mean any business entity, association or cooperative registered under the provisions of RA 6810 otherwise known as Kalakalan 20.

(q) "WAGE DISTORTION" means a situation where an increase/adjustment in prescribed wage rates/allowances 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 distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.

CHAPTER II - PRESCRIBED COLA

SECTION 1. Coverage. - The allowance prescribed under this Wage Order shall apply to all workers and employees in the private sector in Region XI receiving a basic wage of not more than one hundred fifty pesos (P 150.00) or its monthly equivalent regardless of their position, designation or status, and irrespective of the method by which their wages are paid, except, household or domestic helpers, including family drivers and workers in the personal service of another.

SECTION 2. Amount of the Cost of Living Allowance. Workers and employees covered under section 1 hereof shall receive a cost of living allowance (COLA) of twenty-five pesos (P 25.00) per day.

SECTION 3. Creditable Adjustments/Payments. Adjustments/payments whether in the form of a basic wage or COLA granted from January 1, 1993 up to the effectivity of the Wage Order shall be credited as compliance with the adjustment provided therein. Where the adjustments/payments previously granted from January 1, 1993 was less than the prescribed amount, the employer shall pay the difference.

SECTION 4. - Application to Private Educational Institutions. Private educational institutions which increased tuition fees beginning school year 1993-1994 shall comply with the twenty-five pesos (P 25.00) per day allowance prescribed under the Wage Order.

(a) In cases where the tuition fee increase was effected before the effectivity of the Wage Order, compliance with the prescribed allowance shall take effect on December 1, 1993.

(b) In cases where the tuition fee increase was effected on or after the effectivity of the Wage Order, the prescribed allowance shall take effect not later than the date the school actually increased tuition fees but in the latter case, such wage increase may not be retroactive to December 1, 1993.

SECTION 5. Workers Paid by Results. - (a) All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the applicable allowance prescribed under the Wage Order 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.

(b) The allowance of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code, as amended and its implementing regulations.

SECTION 6. Application to Contractors. - In the case of contracts for construction projects and for security, janitorial and similar services allowed by the labor laws, the prescribed allowances shall be borne by the principal 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 COLA, the construction/service contractor shall be jointly and severally liable with his principal or client. In the event that the contractor is exempted, the principal is also exempted.

SECTION 7. Exemptions. (a) The following establishments may be exempted from compliance with the allowance prescribed under the Wage Order upon application with and approval of the RTWPB-XI in accordance with the applicable guidelines:

(1) Retail/service establishments.

(2) New Business Enterprises that started its operations not beyond the two-year (2) period immediately preceding the effectivity of the Wage Order.

(3) Countryside Barangay Business Establishments that started its operations not beyond the two-year (2) period immediately preceding the effectivity of the Wage Order and have been issued the CBBE Certificate of Authority.

(4) Establishments which suffered substantial losses last year and/or this year.

(5) Non-stock and non-profit institutions, like hospitals, asylums, orphanages, schools and similar institutions.

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

(c) In the event that the application for exemption is not granted, the workers and employees shall receive the appropriate COLA due them as provided for under the Wage Order plus interest of one

percent (1%) per month retroactive to December 1, 1993 or the start of operations whichever is applicable.

SECTION 8 . Complaints for Non-Compliance. - Complaints for non-compliance with the allowance prescribed under the Wage Order shall be filed with the Regional Office of the Department.

SECTION 9. 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 COLA granted by the 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 case of non-unionized establishments, a representative chosen by the workers in the said company shall accompany the Department inspector.

The worker's 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 department inspector.

SECTION 10. Effects on Existing Wage Structure. Where the application of the COLA prescribed herein results in distortions in the wage structure within the establishment, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved 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 as prescribed by law.

In cases where there are no collective 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 (NCMB) and, if it remains unresolved within the period prescribed by law, shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC).

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

CHAPTER III - SAFETY CLAUSES

SECTION 1. Non-Diminution of Benefits. Nothing in the Wage Order and these 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 employers.

SECTION 2. Payment of Allowances to covered employees. - (a) Covered employees shall be paid the required allowances during the days they are paid the basic wage even if unworked.

(b) Regular holidays are considered paid days even if unworked and employees should accordingly be paid their allowances, provided that they reported for work on the last working day immediately preceding the holiday.

(c) Covered employees are entitled to allowances during paid rest days and leaves with pay.

SECTION 3. Penal Provisions. - Refusal or failure to pay the prescribed COLA under the Wage Order shall be subject to the Penal Provisions of RA 6727.

SECTION 4. Repealing Clause. All issuances inconsistent herewith are hereby repealed, amended or modified accordingly. If any provision or part of the Wage Order and these Rules, or the application thereof to any person or circumstances are held invalid or unconstitutional, the remainder of the Wage Order and these Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

SECTION 5. Effectivity. - These Rules shall take effect on December 1, 1993.

Done in the City of Davao, Philippines, this 10th day of November, 1993.

JORGE G. ALEGARBES *
Labor Representative
Member, RTWPB-XI

MRS. VIRGINIA T. CAMUS *
Labor Representative
Member, RTWPB-XI

(SGD) ENGR.. PEDRO E. TORRES
Management Representative
Member, RTWPB-XI

(SGD) ATTY. ELIEZER C. TANLAPCO
Management Representative
Member, RTWPB-XI

(SGD) DIR.. SANTIAGO G. ENGINCO
Vice-Chairman
NEDA-XI Regional Director

(SGD) ENGR.. MERLY M. CRUZ
Vice-Chairman
DTI-XI Regional Director

(SGD) ATTY. HENRY M. PAREL
Board Chairman
DOLE-XI Regional Director

* Workers representatives refused to sign because they objected to Section 3 of Chapter II.

(SGD) ATTY. ARTURO L. GAMOLO
Board Secretary VI, RTWPB-XI

Approved this 21st day of January 1994, subject to the following notations.

(SGD) NIEVES R. CONFESOR
Secretary

NOTATIONS TO:

RULES AND REGULATIONS IMPLEMENTING WAGE ORDER rtwpb-xi-03

The Board shall issue a Supplemental Guidelines, to be approved by the National Wages and Productivity Commission, on the criteria for exemptions covering retail/service establishments and establishments which suffered substantial losses.

The last sentence of Section 6 of Chapter II shall be deleted.

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

WAGE ORDER NO. RTWPB-XI-03-A
SUPPLEMENTAL TO WAGE ORDER NO. RTWPB-XI-03

WHEREAS: The RTWPB-XI has recognized the employer's voluntariness or benevolence in granting adjustments/payments;

NOW THEREFORE, by virtue of the power and authority vested under RA 6727 known as the Wage Rationalization Act of 1990, the Regional Tripartite Wages and Productivity Board of Region XI hereby issues Wage Order No. RTWPB-XI-03-A as supplemental to Wage Order No. RTWPB-XI-03:

SECTION 1. Creditable Adjustments/Payments. Adjustments/Payments whether in the form of a basic wage or COLA granted prior to the effectivity of the Wage Order shall be credited as compliance with the adjustment provided therein. Where the adjustments/payments previously granted within the period as may be determined by the Board in the applicable Implementing Rules and Regulations was less than the prescribed amount, the employer shall pay the difference.

SECTION 2. Effectivity. This Supplemental Wage Order shall be governed by all applicable provisions under Wage Order No. RTWPB-XI-03.

SECTION 3. This Supplemental Wage Order shall take effect on December 1, 1993.

Approved 8 December, 1993, Davao City, Philippines.

(SGD) MR. JORGE G. ALEGARBES
Labor Representative
Member, RTWPB-XI

(SGD) MRS. VIRGINIA T. CAMUS
Labor Representative
Member, RTWPB-XI

(SGD) ENGR. PEDRO E. TORRES
Management Representative
Member, RTWPB-XI

(SGD) ATTY. ELIEZER C. TANLAPCO
Management Representative
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(SGD) DIR. SANTIAGO G. ENGINCO
Vice-Chairman
NEDA-XI Regional Director

(SGD) ENGR. MERLY M. CRUZ
Vice-Chairman
DTI-XI Regional Director

(SGD) ATTY. HENRY M. PAREL
Board Chairman
DOLE-XI Regional Director

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Davao City

WAGE ORDER NO. RTWPB-XI-03-B

WHEREAS, The Regional Board is still in the process of reviewing Wage Order No. RTWPB-XI-03.

NOW, THEREFORE, by virtue of the power and authority vested under RA 6727 known as the Wage Rationalization Act of 1990, the Regional Tripartite Wages and Productivity Board of Region XI hereby issues this Order:

SECTION 1. Wage Order No. RTWPB-XI-03 shall continue to be in full force and effect until this Board comes up with a new Wage Order which shall be within thirty (30) days from date hereof.

Approved November 12, 1994, Davao City, Philippines.

(SGD)ATTY. ELIEZER C. TANLAPCO
Management Representative
Member, RTWPB-XI

(SGD)ATTY. BIENVENIDO D. CARIAGA
Management Representative
Member, RTWPB-XI

Refused to sign
MR. JORGE G. ALEGARBES
Labor Representative
Member, RTWPB-XI

Refused to sign
MRS. VIRGINIA T. CAMUS
Labor Representative
Member, RTWPB-XI

(SGD) DIR. SANTIAGO G. ENGINCO
Vice-Chairman, RTWPB-XI
NEDA-XI Regional Director

(SGD) ENGR. MERLY M. CRUZ
Vice-Chairman, RTWPB-XI
DTI-XI Regional Director

(SGD) ENGR. PEDRITO J. SUSI, CESO II
Board Chairman, RTWPB-XI
DOLE-XI Regional Director