

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-05-C
PRESCRIBING FOR THE PROVINCE OF SULTAN KUDARAT
NEW MINIMUM WAGE RATES FOR WORKERS IN THE PRIVATE SECTOR

WHEREAS, the Regional Tripartite Wages and Productivity Board of Central Mindanao (Region XII) adjusted its minimum wage rates when it issued Wage Order No. CMR-05 on December 19, 1996 and its implementing rules and regulations;

WHEREAS, the Regional Tripartite Wages and Productivity Board of Central Mindanao (Region XII) issued Wage Order No. CMR-05-A captioned *Amending Certain Provisions of Wage Order No. CMR-05*, which among others excluded the Province of Sultan Kudarat from its coverage by virtue of R.A. 7901;

WHEREAS, the Province of Sultan Kudarat by virtue of R.A. 7901 is a component part of Region XI but was not included in the coverage of Wage Order No. RTWPB-XI-05 issued on December 17, 1996;

WHEREAS, the workers of the Province of Sultan Kudarat must be protected from the effects of a rising standard of living brought about by the series of adjustments in petroleum products, agricultural commodities, transportation fares and the like;

WHEREAS, the Regional Tripartite Wages and Productivity Board- Region XI invited to Davao City the management and labor sectors of Sultan Kudarat on August 8, 1997 for consultation regarding the issue; and on August 14, 1997 consulted with the members of the Regional Board of Region XII during a Coordinative Meeting held at Maguindanao Hotel, Davao City;

WHEREAS, the Regional Board of Region XI recognizing the need for adjusting the minimum wage rates in the Province of Sultan Kudarat at the same time taking cognizance of present development specifically House Bill No. 5446 which seeks for the return of said province to the jurisdiction of Region XII, hereby adopts Wage Order No. CMR-05 issued by RTWPB-XII for the Province of Sultan Kudarat;

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 of Region XI now issues this Wage Order:

SECTION 1. AMOUNT OF MINIMUM WAGE. Upon the effectivity of this Wage Order, the new minimum wage rates of all workers in the private sector for the Province of Sultan Kudarat effective January 9, 1997 shall be as follows:

Sector, Industry and Other Selected Indicators	Sultan Kudarat Effective January 9, 1997
Non-Agriculture *	P126.00
Agriculture	
Sugar and Rubber Plantation	104.00
Others	112.00
Retail/Service	
Employing More Than Ten Workers	123.00
Employing Not More Than Ten Workers	90.00

* Includes private educational institutions and hospitals.

To augment the adjusted amount, the Regional Board recommends and encourages the workers and employers to improve their production and to share the gains of such produce.

SECTION 2. COVERAGE. The new minimum wage rates prescribed under this Order shall apply to all covered workers in the private sector, regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid.

SECTION 3. BASIS OF MINIMUM WAGE RATES. The new minimum wage rates prescribed in this Order shall be for the normal working hours, which shall not exceed eight (8) hours a day.

SECTION 4. 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, executive orders, and/or under any contract or agreement between the workers and employers.

SECTION 5. CREDITABLE MONETARY BENEFITS DERIVED FROM PROFIT-SHARING OR GAIN-SHARING SCHEMES. The monetary benefits, derived from profit-sharing or productivity gain-sharing scheme as mutually agreed by the parties involved, permanently or consistently granted to the workers within one year from the effectivity of this Order and have been continuously granted even after the effectivity of this Order, shall be considered as compliance to the new minimum wage rates prescribed under this Order, but if the benefits given are less than the prescribed new minimum wage rates, the employer shall pay the difference.

In the event that the profit-sharing or gain-sharing scheme is suspended, for whatever reason, the employer shall pay the minimum wage rates prescribed under this Order during the period of suspension.

Further, if the Productivity Gain-sharing is discontinued, the employer shall pay the wage rates prescribed under this Order retroactive to the date the discontinuance of the scheme took effect.

The Regional Board shall issue Rules that specify the procedure for integrating the productivity benefits or incentives into the minimum wage subject to the approval of the Secretary of Labor and Employment.

SECTION 6. WAGE DISTORTION. Where the application of the new minimum wage rates prescribed under this Order results in wage distortion, the distortion shall be addressed through mutual agreements by the employer and its employees or their representative unions.

The Regional Board may, from time to time, issue an advisory distortion formula from which the parties may, at their own discretion, agree to adopt to resolve the distortion. The said advisory distortion formula, however, is either compulsory nor mandatory in nature.

Disputes that may arise as a result of this Order shall be resolved in accordance with Article 124 of the Labor Code, as amended.

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

SECTION 7. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. For private educational institutions of all levels which determine their rate of tuition and other school fees or charges subject to guidelines issued by the Department of Education, Culture and Sports or the Commission on Higher Education (CHED) as the case may be, the new minimum wage rates in this Order shall apply for school year 1997-1998 if tuition fees are increased for said school year. If no increase in tuition fees is planned for school year 1997-1998, payment of the new minimum wage rates may be deferred but in no case will this temporary deferment be for more than one school year.

SECTION 8. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the new minimum wage rates for covered workers shall be borne by the principals or clients of the contractor/agent and the contract shall be deemed amended accordingly.

Except for the mandated salary deductions such as withholding tax, Social Security System contributions, Medicare, and Pag-ibig contributions, no other deductions shall be made against the workers' wage rates as prescribed under this Order, unless specifically agreed by both parties.

In all cases, the principal and the contractor shall be jointly and severally liable for the compliance with the new minimum wage rates.

SECTION 9. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the new minimum wage rates prescribed under this Order for the normal working hours that shall not exceed eight (8) hours a day, or a proportion of the new minimum wage rates for work of less than the normal working hours.

SECTION 10. WAGES OF SPECIAL GROUPS OF WORKERS. Wages of apprentices, learners and handicapped workers shall never be less than seventy-five percent (75%) of the new minimum wage rates prescribed under this Order.

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

SECTION 11. MOBILE WORKERS. The new minimum wage rates provided in this Order shall apply to workers who by the nature of their work have to travel from one city or province to another if the domicile or head office of the employer is in Region XI.

SECTION 12. BRANCH WORKERS. The minimum wage rates of workers working in branches or agencies of establishments are those applicable in the place where they are stationed.

SECTION 13. TRANSFER OF PERSONNEL. The transfer of personnel from one province or city to another or to areas outside Region XI shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers before the transfer.

The workers transferred to Region XI shall be entitled to receive the new minimum wage applicable therein.

SECTION 14. EXEMPTIONS.

1. Automatic Exemption. Automatically exempted from the provisions of this Order are household or domestic helpers and persons in the personal service of another including family drivers.
2. Non-Automatic Exemption. Upon proper application with and as determined by the Regional Board, the following categories of establishments may be exempted from the applicability of this Order:
 - (a) Retail/Service establishments regularly employing not more than ten (10) workers;
 - (b) Distressed establishments as provided under Section 3 (A) of the NWPC Guidelines No. 01, Series of 1996;
 - (c) New Business Establishments including non-profit institutions, established within two (2) years from the effectivity of this Order based on the latest registration with the appropriate government agency such as the Securities and Exchange Commission, Department of Trade and Industry, Cooperatives Development Authority and Mayor's Office classified under any of the following:
 - i. Agricultural establishments whether plantation or non-plantation.
 - ii. Establishments with total assets after financing of five million pesos (P5,000,000.00) and below.
 - (d) Establishments adversely affected by natural calamities as provided under Section 3 (D) of the NWPC Guidelines No. 01, Series of 1996.
3. Duration and Extent of Exemption. The establishments that properly applied and are found qualified for exemptions shall be granted full exemption of one (1) year from the effectivity of this Order; except for distressed establishments which may be granted either full or partial exemption as provided under Section 7 & 8 of the NWPC Guidelines No. 01, Series of 1996.
4. Deadline of Application for Exemption. The deadline for filing of applications for exemption shall be sixty (60) days from the date of publication of the approved Rules Implementing this Order in at least one newspaper of general circulation in the region; except, however, for New Business Enterprises of which the deadline for filing of application for exemption shall be sixty (60) days from the date of registration with the appropriate government agency.
5. Effect of Application for Exemption. Whenever an application for exemption has been duly filed with the Regional Board, any action or complaint for alleged non-compliance of this Order shall be deferred pending the resolution of the application.
6. Effect of Disapproved Application for Exemption. In the event that the application for exemption is disapproved, the workers shall be paid the new minimum wage rates due them as provided for under this Order retroactive to the date of effectivity of this Order plus simple interest of one percent (1%) per month.

7. **Workers' Opposition.** Any worker or, if unionized, the union in the applicant establishment, may file with the Regional Board within fifteen (15) days from receipt of the notice of the application, an opposition to the application for exemption stating the reasons why the application should not be approved, furnishing the applicant a copy thereof. The fifteen (15) day period shall run only upon receipt of the complete supporting documents. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.
8. **Motion for Reconsideration.** The aggrieved party may file with the Regional Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.

No second motion for reconsideration shall be entertained in any case. The decision of the Regional Board shall be final and executory unless appealed to the Commission.

9. **Appeal to the Commission.** Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Regional Board, in two (2) legible copies, not later than ten (10) days from 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.

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

10. **Effect of Appeal to the Commission.** Whenever an appeal of disapproved application for exemption has been duly filed, any action or complaint for alleged non-compliance of this Order shall be deferred pending the resolution of the appeal.

SECTION 15. PAYMENT OF WAGES. Upon written petition of the majority of the workers concerned, all private establishments, companies, businesses and other entities with at least twenty-five workers and located within one kilometer radius to a commercial, savings or rural bank, shall pay the wages and other benefits of their workers through any of the banks, within the period and in the manner and form prescribed under the Labor Code, as amended.

SECTION 16. DUTY OF BANK. Whenever applicable and upon request of a concerned worker or union, the bank through which wages and other benefits are paid shall issue a certification of the record of payment of the wages and benefits of a particular worker or workers for a particular payroll period.

SECTION 17. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with the new minimum wage rates prescribed under this Order may be filed with the Regional Office of the Department of Labor and Employment having jurisdiction over the workplace and shall be subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to the criminal prosecution.

SECTION 18. PENAL PROVISIONS. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay any of the prescribed adjustments or increases in the new minimum wage rates made in accordance with this Order shall be punished by a fine 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 as provided in R.A. 8188: provided, that any person convicted under this 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 the criminal liability imposable under this Order.

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 19. 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 Regional Board.

SECTION 20. RULES IMPLEMENTING THIS ORDER. The Regional Board shall prepare the necessary rules to implement this Order, subject to approval of the Secretary of Labor and Employment.

SECTION 21. 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 22. EFFECTIVITY. This Order shall take effect fifteen (15) days after its publication in at least one (1) newspaper of general circulation in Region XI and Sultan Kudarat.

APPROVED, September 19, 1997, Davao City, Philippines.

(SGD) MR. RULFO V. ASIS
Management Representative
Member, RTWPB-XI

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

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

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

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

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

(SGD) DIR. MA. BRENDA L. VILLAFUERTE
DOLE-XI, Regional Director
RTWPB-XI, Board Chairman

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD-XI
Davao City

RULES IMPLEMENTING WAGE ORDER NO. RTWPB-XI-05-C

Pursuant to Section 5, Rule IV of the NWPC Guidelines No. 001-95, the Revised Rules of Procedure on Minimum Wage Fixing, and Section 20 of Wage Order No. RTWPB-XI-05-C, the following rules are hereby issued for guidance and compliance by all concerned:

RULE I - DEFINITION OF TERMS

SECTION 1. DEFINITION OF TERMS. As used in this Rules:

- a) "Order" means Wage Order No. RTWPB-XI-05-C;
- b) "Board" means the Regional Tripartite Wages and Productivity Board in Region XI;
- c) "Commission" means the National Wages and Productivity Commission;
- d) "Department" means the Department of Labor and Employment;
- e) "Region XI" refers to a geographical area composed of the cities of Davao, General Santos, and the provinces of Davao del Norte, Davao Oriental, South Cotabato, Sarangani, including Surigao del Sur until such time that a Regional Board for CARAGA Region is created, and Sultan Kudarat by virtue of R.A. 7901;
- f) "Secretary" refers to the Secretary of Labor and Employment;
- g) "Party" means any legitimate organization of workers or employers with substantial interest in the region, province or industry therein as determined by the Board, and who stands to be directly affected by the Board proceedings, orders, decisions or resolutions;
- h) "Wage" refers to the remuneration or earnings paid to any employee or worker, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece or commission basis, other method of calculating the same, which is payable by an employer to an employee or worker under a written or unwritten contract of employment for work done or to be done, or for services rendered or to be rendered and 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 or worker. "Fair and reasonable value" shall not include any profit to the employer or to any person affiliated with the employer.
- i) "Minimum Wage" is the lowest wage rate fixed by the Board that an employer should pay his employees or workers;
- j) "Basic Wage" means all remuneration or earnings paid by an employer to an employee or a worker for services rendered on normal working days and hours but does not include cost of living allowances, profit-sharing payments, 13th month pay or other monetary benefits which are not considered as part of or integrated into the regular salary of the workers on the date the Order became effective;
- k) "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 or worker 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;
- l) "Voluntary Arbitration" refers to the mode of settling labor-management disputes by which the parties select a competent, trained, and impartial person who shall decide on the merits of the case and whose decision is final, executory and unappealable;
- m) "Wage Order" refers to the Order promulgated by the Board pursuant to its wage fixing authority;

- n) "Industry" refers to a trade, businesses in similar or allied activities in which individuals are gainfully employed; and,
- o) "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location;

For purposes of determining eligibility for exemption, establishments under the same owner/s but separately registered with the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI), or Cooperative Development Authority (CDA) as the case may be, irrespective of their location, shall be treated as individual and distinct establishments.

- p) "Retail Establishment" refers to 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.

- q) "Service Establishment" refers to one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such;

- r) "Distressed Establishment" refers to an establishment which meets the criteria enumerated in Section 3A of the NWPC Guidelines No. 01, Series of 1996;

NWPC Guidelines No. 01, Series of 1996 prescribes the Rules on Exemption from compliance with the prescribed wage increases/cost of living allowances granted by the Regional Tripartite Wages and Productivity Boards.

- s) "New Business Enterprises" refer to establishments, including non-profit institutions, established within two (2) years from effectivity of the Wage Order based on the latest registration with the appropriate government agency such as SEC, DTI, CDA, and Mayor's Office classified under any of the following:
 - i. Agricultural establishments whether plantation or non-plantation.
 - ii. Establishments with total assets after financing of five million pesos (P5,000,000.00) and below.

- t) "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 activities 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, rubber, coconut, abaca, tobacco, pineapple, aquatic or other farm products;

- u) "Plantation Agricultural Enterprise on Sugar or Rubber" is one engaged in agriculture on sugar or rubber products. Any other agricultural enterprises whether plantation or non-plantation shall be considered as "Other Agricultural Enterprises;"

- v) "Non-Agriculture Enterprises" refer to establishments or industries regardless of employment size other than retail/service establishments, plantation agricultural enterprises on sugar or rubber, and other agricultural enterprises; and, shall include private educational institutions and hospitals;

- w) "Productivity" refers to the relation of output to input in physical and/or monetary terms;

- x) "Profit-Sharing or Gain-Sharing Scheme" refers to a program formally and mutually agreed by the workers and employers involved of which establishes the system and procedures of sharing profits or gains brought about by increased profit or improved productivity in accordance with an agreed proportion or formula;

- y) "Monetary Benefits" refer to cash incentives given to employees derived from profit-sharing or gainsharing scheme.

RULE II - NEW MINIMUM WAGE RATES

SECTION 1. AMOUNT OF MINIMUM WAGE. Upon the effectivity of the Order, the new minimum wage rates of all covered workers in the private sector of the Province of Sultan Kudarat, according to specific sector, industry, and other selected indicators shall be as follows:

Sector, Industry and Other Selected Indicators	Sultan Kudarat Effective January 9, 1997
Non-Agriculture *	126.00
Agriculture	
Sugar and Rubber Plantation	104.00
Others	112.00
Retail/Service	
Employing More Than Ten Workers	123.00
Employing Not More Than Ten Workers	90.00

* Includes private educational institutions and hospitals.

To augment the adjusted amount, the Board recommends and encourages the workers and employers to improve their production and to share the gains of such produce.

SECTION 2. COVERAGE. The new minimum wage rates prescribed under the Order shall apply to all covered workers in the private sector, regardless of their position, designation or status of employment and irrespective of the method by which their wages are paid.

SECTION 3. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours a day.

SECTION 4. 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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 391.50^{2/} \text{ days}}{12}$$

Where 391.50 days:

302 days	Ordinary working days
18 days	9 regular holidays x 200%
2.60 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% 3/
<u>391.50 days</u>	Total equivalent number of days

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

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

Where: 365 days:

302 days	Ordinary working days
51 days	Rest days
10 days	Regular Holidays
2 days	2 special days x 130% 3/
<u>365 Days</u>	Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 314.6 \text{ days}}{12}$$

Where: 314.6 days:

302 days	Ordinary working days
10 days	Regular holidays
2.60 days	2 special days (if worked) x 130% 3/
<u>314.60 days</u>	Total equivalent number of days

^{2/} Includes premium for holidays, special days and rest days

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

$$EMR = \frac{ADR \times 262.6 \text{ days}}{12}$$

Where 262.6 days:

250	Days	Ordinary working days	
10	days	Regular holidays	
2.60	days	2 special days (if worked) x 130%	3/
391.50	days	Total equivalent number of days	

Note: 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 is 52 days, as there are 52 weeks in a year.

Nothing herein shall be construed as authorizing the reduction of benefits granted under the existing agreements or employer practices/policies.

RULE III

NON-DIMINUTION OF BENEFITS, CREDITABLE MONETARY BENEFITS, AND WAGE DISTORTION

SECTION 1. NON-DIMINUTION OF BENEFITS. Nothing in the Order 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. CREDITABLE MONETARY BENEFITS DERIVED FROM PROFIT-SHARING OR GAIN SHARING SCHEMES. The monetary benefits, derived from profit-sharing or productivity gain-sharing scheme as mutually agreed by the parties involved, permanently or consistently granted to the workers within one year from the effectivity of the Order and have been continuously granted even after the effectivity of the Order, shall be considered as compliance to the new minimum wage rates prescribed under the Order, but if the benefits given are less than the prescribed new minimum wage rates, the employer shall pay the difference.

In the event that the gain-sharing scheme is suspended, for whatever reason, the employer shall pay the minimum wage rates prescribed under the Order during the period of suspension.

Further, if the Productivity Gain-sharing is discontinued, the employer shall pay the wage rates prescribed under the Order retroactive to the date the discontinuance of the scheme took effect.

The Board shall issue Rules, supplemental to this Rules, that specify the procedure for integrating the productivity benefits or incentives into the minimum wage subject to the approval of the Secretary of Labor and Employment.

SECTION 3. WAGE DISTORTION. Where the application of the new minimum wage rates prescribed under the Order results in wage distortion, the distortion shall be addressed through mutual agreements by the employer and its employees or their representative unions.

The Board may, from time to time, issue an advisory distortion formula from which the parties may, at their own discretion, agree to adopt to resolve the distortion. The said advisory distortion formula, however, is neither compulsory nor mandatory in nature.

Disputes which may arise as a result of the Order shall be resolved in accordance with Article 124 of the Labor Code, as amended.

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

RULE IV - APPLICATION TO SELECTED ESTABLISHMENTS, INDUSTRIES, AND GROUPS OF WORKERS

SECTION 1. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS. For private educational institutions of all levels which determine their rate of tuition and other school fees or charges subject to guidelines issued by the Department of Education, Culture and Sports or the Commission on Higher Education (CHED) as the case may be, the new minimum wage rates in the Order shall apply for school year 1997-1998 if

tuition fees are increased for said school year. If no increase in tuition fees is planned for school year 1997-1998, payment of the new minimum wage rates may be deferred but in no case will this temporary deferment be for more than one school year.

SECTION 2. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects and for security, janitorial and similar services, the new minimum wage rates for covered workers shall be borne by the principals or clients of the contractor/agent and the contract shall be deemed amended accordingly.

Except for the mandated salary deductions such as withholding tax, Social Security System contributions, Medicare, and Pag-ibig contributions, no other deductions shall be made against the workers' wage rates as prescribed under the Order, unless specifically agreed by both parties.

In all cases, the principal and the contractor shall be jointly and severally liable for the compliance with the new minimum wage rates.

SECTION 3. WORKERS PAID BY RESULTS. All workers paid by results, including those who are paid on piecework, takay, pakyaw, or task basis, shall receive not less than the new minimum wage rates prescribed under the Order for the normal working hours that shall not exceed eight (8) hours a day, or a proportion of the new minimum wage rates for work of less than the normal working hours.

The new minimum wage rates for employees or workers paid by results shall be computed in accordance with the following steps:

- 1) Amount of increase in ANMW* ? Previous AMW x 100 = % Increase;
* Where ANMW is the applicable new minimum wage rates.
- 2) Existing rate/piece x % increase = increase in rate/piece;
- 3) Existing rate/piece + increase in rate/piece = Adjusted rate/piece;

The wage rates 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 4. WAGES OF SPECIAL GROUPS OF WORKERS. Wages of apprentices, learners and handicapped workers shall never be less than seventy-five percent (75%) of the new minimum wage rates prescribed under the Order.

All recognized apprenticeship and learnership agreements entered before the effectivity of the Order shall be considered as automatically modified as far as their wage clauses are concerned to reflect the new minimum wage rates prescribed under the Order.

SECTION 5. MOBILE WORKERS. The new minimum wage rates provided in the Order shall apply to workers who by the nature of their work have to travel from one city or province to another if the domicile or head office of the employer is in Region XI.

SECTION 6. BRANCH WORKERS. The minimum wage rates of workers working in branches or agencies of establishments are those applicable in the place where they are stationed.

SECTION 7. TRANSFER OF PERSONNEL. The transfer of personnel to areas outside Region XI shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers before the transfer.

The workers transferred to Region XI shall be entitled to receive the new minimum wage applicable therein.

RULE V - EXEMPTIONS

SECTION 1. AUTOMATIC EXEMPTION. Automatically exempted from the provisions of the Order are households or domestic helpers and persons in the personal service of another including family drivers.

SECTION 2. NON-AUTOMATIC EXEMPTION. Upon proper application with and as determined by the Board, the following categories of establishments may be exempted from the applicability of the Order:

- (a) Retail/Service establishments regularly employing not more than ten (10) workers;
- (b) Distressed establishments as provided under Section 3 (A) of the NWPC Guidelines No. 01, Series of 1996;

- (c) New Business Establishments including non-profit institutions, established within two (2) years from the effectivity of the Order based on the latest registration with the appropriate government agency such as the SEC, DTI, CDA, and Mayor's Office classified under any of the following:
 - i. Agricultural establishments whether plantation or non-plantation.
 - ii. Establishments with total assets after financing of five million pesos (P5,000,000.00) and below.
- (d) Establishments adversely affected by natural calamities as pointed under Section 3 (D) of the NWPC Guidelines No. 01, series of 1996.

SECTION 3. DURATION AND EXTENT OF EXEMPTION. The establishments that properly applied and are found qualified for exemptions shall be granted full exemption of one (1) year from the effectivity of the Order; except for distressed establishments which may be granted either full or partial exemption as provided under Section 7 & 8 of the NWPC Guidelines No. 01, Series of 1996.

SECTION 4. DEADLINE OF APPLICATION FOR EXEMPTION. The deadline for filing of applications for exemption shall be sixty (60) days from the date of publication of this Rules implementing the Order in at least one newspaper of general circulation in the region; except, however, for New Business Enterprises of which the deadline for filing of application for exemption shall be sixty (60) days from the date of registration with the appropriate government agency.

SECTION 5. EFFECT OF APPLICATION FOR EXEMPTION. Whenever an application for exemption has been duly filed with the Board, any action or complaint for alleged non-compliance of the Order shall be deferred pending the resolution of the application.

SECTION 6. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION. In the event that the application for exemption is disapproved, the workers shall be paid the new minimum wage rates due them as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

SECTION 7. WORKERS' OPPOSITION. Any worker or, if unionized, the union in the applicant establishment, may file with the Board within fifteen (15) days from receipt of the notice of the application, an opposition to the application for exemption stating the reasons why the application should not be approved, furnishing the applicant a copy thereof. The fifteen (15) day period shall run only upon receipt of the complete supporting documents. The opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

SECTION 8. MOTION FOR RECONSIDERATION. The aggrieved party may file with the Board a motion for reconsideration of the decision on the application for exemption within ten (10) days from its receipt and shall state the particular grounds upon which the motion is based, copy furnished the other party and the DOLE Regional Office concerned.

No second motion for reconsideration shall be entertained in any case. The decision of the Board shall be final and executory unless appealed to the Commission.

SECTION 9. APPEAL TO THE COMMISSION. Any party aggrieved by the decision of the Board may file an appeal to the Commission, through the Board, in two (2) legible copies, not later than ten (10) days from 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.

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

SECTION 10. EFFECT OF APPEAL TO THE COMMISSION. Whenever an appeal of disapproved application for exemption has been duly filed, any action or complaint for alleged non-compliance of the Order shall be deferred pending the resolution of the appeal.

RULE VI - PAYMENT OF WAGES AND DUTY OF BANK

SECTION 1. PAYMENT OF WAGES. Upon written petition of the majority of the workers concerned, all private establishments, companies, businesses and other entities with at least twenty-five workers and located within one kilometer radius to a commercial, savings or rural bank, shall pay the wages and other benefits of

their workers through any of the banks, within the period and in the manner and form prescribed under the Labor Code, as amended.

SECTION 2. DUTY OF BANK. Whenever applicable and upon request of a concerned worker or union, the bank through which wages and other benefits are paid shall issue a certification of the record of payment of the wages and benefits of a particular worker or workers for a particular payroll period.

RULE VII - COMPLAINTS FOR NON-COMPLIANCE AND PENAL PROVISIONS

SECTION 1. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with the new minimum wage rates prescribed under the Order may be filed with the Regional Office of the Department of Labor and Employment having jurisdiction over the workplace and shall be subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to the criminal prosecution.

SECTION 2. PENAL PROVISIONS. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay any of the prescribed increases or adjustments in the new minimum wage rates made in accordance with the Order shall be punished by a fine 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 as provided for in R.A. 8188: 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 the criminal liability imposed under the Order.

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.

RULE VIII - PROHIBITION AGAINST INJUNCTION AND SEPARABILITY CLAUSE

SECTION 1. 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 2. SEPARABILITY CLAUSE. If, for any reason, any section or provision of this Rules is declared null and void, no other section, provision, or part thereof shall be affected and those shall remain in full force and effect.

RULE IX - EFFECTIVITY

SECTION 1. EFFECTIVITY. This Rules takes effect retroactive on January 9, 1997, the date of effectivity of Wage Order No. RTWPB-XI-05-C.

APPROVED, September 19, 1997, Davao City, Philippines.

(SGD) MR. RULFO V. ASIS
Management Representative
Member, RTWPB-XI

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

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

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

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

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

(SGD) DIR. MA. BRENDA L. VILLAFUERTE

DOLE-XI, Regional Director
RTWPB-XI, Board Chairman

Approved this 12th day of November, 1997.

(SGD) LEONARDO A. QUISUMBING
Secretary