

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

WAGE ORDER NO. RTWPB-XI-06

PROVIDING FOR A DAILY COST OF LIVING ALLOWANCE (COLA)  
TO THE WORKERS IN THE PRIVATE SECTOR FOR  
A PERIOD OF SIX (6) MONTHS

WHEREAS, pursuant to its mandate to conduct continuing studies of wage rates and to periodically assess the effects of a wage order, the Regional Tripartite Wages and Productivity Board of Region XI (RTWPB-XI) *motu proprio* initiated a review of existing minimum wage rates in the light of the present economic difficulties resulting in the loss of the purchasing power of the minimum wage earners caused by currency and financial turmoil of economies within the ASEAN Region;

WHEREAS, during the course of the public hearings and consultations conducted by the RTWPB-XI in Davao City on November 28, 1997, General Santos City on December 12, 1997, and Davao Province on December 19, 1997, petitions for wage increase were filed by the *Philippine Organization of Labor Unions*-(Lakas Manggagawa Labor Center) on November 17, 1997, and the *Association of Trade Union-Trade Union Congress of the Philippines* on November 28, 1997, for P40.00 and P50.00 across-the-board wage adjustments, respectively;

WHEREAS, as a result of the public hearings/consultations, studies and deliberations conducted, the RTWPB-XI finds a need to protect the purchasing power of the minimum wage earner during the period of socio-economic uncertainty and instability in the first semester of the current year coupled with the continuing decline or fluctuation of the peso, *viz-a-viz* the US Dollar;

WHEREAS, the RTWPB-XI decided to provide a temporary relief for the minimum wage earners in the form of a daily cost of living allowance (COLA) for a period of six (6) months, effective January 1, 1998;

NOW, THEREFORE, by virtue of the power and authority vested under Republic Act No. 6727 otherwise known as the Wage Rationalization Act of 1990, the Regional Tripartite Wages and Productivity Board-Region XI hereby issues this Wage Order:

*Section 1. AMOUNT OF THE COST OF LIVING ALLOWANCE.* Effective January 1, 1998, the minimum wage earners in the private sector regardless of the sector/industry/province or city shall receive a daily cost of living allowance (COLA) of TEN PESOS (P10.00) for a period of six (6) months, and unless modified by a subsequent wage order, the same shall remain in full force and effect.

*Section 2. COVERAGE.*

(a) The COLA prescribed under this Wage Order shall apply to all covered workers and employees in the region employed in the private sector whether agriculture or non-agriculture who are receiving the daily minimum wage rates prescribed in Wage Order No. RTWPB-XI-05 and RTWPB-XI-05-C, respectively, except household or domestic helpers and persons in the personal service of another including family drivers;

(b) In the case of private educational institutions, the provisions of R.A. 6728 shall cover them on wage adjustments. The COLA prescribed under this Wage Order shall apply to all workers and employees receiving the minimum wage in private educational institutions as soon as they have increased or are granted authority to increase their tuition fees during School Year 1998-99. Otherwise, such COLA shall be so applicable not later than the opening of the next school year beginning 1999.

*Section 3. CONTRACT WORKERS.* In the case of contracts for construction projects and for security, janitorial and similar services, 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 COLA, the construction/service contractor shall be jointly and severally liable with the principal or client.

*Section 4. WORKERS PAID BY RESULTS.* All workers paid by results, including those who are paid on piecework, *takay*, *pakyao* 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 5. WAGE DISTORTION.* 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 6. PENAL PROVISION.* Any employer who refuses or fails to pay the minimum wage increase provided under this Wage Order shall be subject to the penalties provided for in R.A. 8188.

*Section 7. NON-DIMINUTION OF BENEFITS.* Nothing in this Wage Order shall be construed as authorizing the reduction of any existing wage rates, allowance or other benefits under existing laws, decrees, issuances, executive orders/or under any contract or agreements between workers and employers.

*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 this Wage Order or any proceedings before this Regional Board.

*Section 9. 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 10. IMPLEMENTING RULES AND REGULATIONS.* This Regional Board shall promulgate the necessary rules and regulations to implement the provisions of this Wage Order.

*Section 11. EFFECTIVITY.* This Wage Order shall take effect FIFTEEN (15) days following its complete publication in at least one (1) newspaper of general circulation in Region XI.

*Approved, January 20, 1998, Davao City, Philippines.*

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

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

I dissent as to the amount and coverage:  
(SGD) MR. JORGE G. ALEGARBES  
Labor Representative  
Member, RTWPB-XI

(OUT OF TOWN)  
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, JR.  
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-REGION XI  
Davao City

RULES AND REGULATION IMPLEMENTING  
WAGE ORDER NO. RTWPB-XI-06

Pursuant to Section 5, chapter IV of the NWPC Guidelines No.01-95 on the Revised Rules of Procedure on Wage Fixing, and Section 10 of Wage Order No. RTWPB-XI-06, 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 this rules,

- a) **WAGE ORDER** means Wage Order No. RTWPB-XI-06, promulgated by this Regional Board pursuant to its wage-fixing authority.
- b) **COMMISSION** means the National Wages and Productivity Commission.
- c) **REGIONAL BOARD/RTWPB-XI** means the Regional Tripartite Wages and Productivity Board of Region XI.
- d) **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 Sultan Kudarat, including Surigao del Sur until such time a Regional Board for CARAGA Region is created.
- e) **DEPARTMENT** refers to the Department of Labor and Employment, Region XI.
- f) **REGIONAL MINIMUM WAGE** is the lowest wage rate fixed by law/wage order that an employer should pay his worker.
- g) **ALLOWANCE/COLA** 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) **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 activity 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, coconut, abaca, tobacco, pineapple, aquatic or other farm products.
- i) **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 not included in the definition of plantation agricultural workers are considered non-plantation agricultural workers.
- j) **ESTABLISHMENT** refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location.
- k) **RETAIL ESTABLISHMENT** is one open to the general consuming public, principally engaged in the sale of goods to end users for personal or household use. A retail establishment that engages in wholesale activities loses its retail character.
- l) **SERVICE ESTABLISHMENT** is one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such.
- m) **COTTAGE/HANDICRAFT ESTABLISHMENT** refers to any business entity or enterprise engaged in industry, agribusiness and/or services whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and

equipment are situated, must have a value not exceeding P1,500,000 (As defined in SMED Council Resolution No. 3, Series of 1995).

- n) **WAGE DISTORTION** refers to 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 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* COVERAGE OF COLA

### *Section 1. EMPLOYEES COVERED.*

a) All covered workers and employees in the region employed in the private sector whether agriculture or non-agriculture who are receiving the daily minimum wage rates prescribed under the Wage Order No. RTWPB-XI-05 and RTWPB-XI-05-C, respectively, except household or domestic helpers and persons in the personal service of another including family drivers.

b) Private educational institutions shall be governed by the provisions of R.A. 6728 on wage adjustments.

*Section 2. AMOUNT OF THE COST OF LIVING ALLOWANCE.* Effective January 1, 1998, all workers and employees covered under Section 1 hereof shall receive a daily cost of living allowance (COLA) of TEN PESOS (P10.00) for a period of six (6) months, and unless modified by a subsequent wage order, the same shall remain in full force and effect.

*Section 3. WORKERS PAID BY RESULTS.* All workers paid by results including those who are paid on piecework, *takay*, *pakyao* 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. The COLA set forth herein shall be borne by the principal and the contract previously forged between the principal and the contractor is deemed amended accordingly. In the event that the principal fails to pay the COLA, the contractor shall be jointly and severally liable with the principal.

*Section 4. APPLICATION TO CONTRACTORS.* In the case of contracts for construction projects, security, janitorial and similar services, the prescribed COLA shall be borne by the principals or clients of the construction/service contractors and contracts shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed COLA, the construction/service contractors shall be jointly and severally liable with his principal or client.

*Section 5. APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS.* The COLA prescribed under the Wage Order shall apply to all workers and employees receiving the minimum wage in private educational institutions as soon as they have increased or are granted authority to increase their tuition fees during School Year 1998-1999. Otherwise, such COLA shall be so applicable not later than the opening of the next school year beginning 1999.

## *Chapter III* GENERAL PROVISIONS

*Section 1. BASIS FOR THE COST OF LIVING ALLOWANCE.* The COLA prescribed under the Wage Order shall be for the normal working hours which shall not exceed eight (8) hours of work a day.

*Section 2. WAGE DISTORTION.* Where the application of the COLA prescribed under the Wage Order results in a distortion in the wage structure within an establishment, the employer and the union shall negotiate to correct the distortion. Any dispute arising from wage distortions shall be resolved through the grievance procedure under their Collective Bargaining Agreement and, if it remains unresolved, it shall be decided 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 case where there are no Collective Bargaining 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 COLA prescribed under the Wage Order.

*Section 3. COMPLAINTS FOR NON-COMPLIANCE.* Complaints for non-compliance with the COLA prescribed under the Wage Order shall be filed with the Department and shall be subject of enforcement proceedings under Art. 128/129 of the Labor Code, as amended.

*Section 4. CONDUCT OF INSPECTION BY THE DEPARTMENT.* The Department shall conduct inspection of establishments, as often as necessary, to determine whether workers are paid the prescribed COLA under the Wage Order. In the conduct of inspection in unionized companies, the Department inspectors shall be accompanied by the President or other responsible officer of the recognized bargaining unit. In case of non-unionized establishments, a representative chosen by the workers in the said company shall accompany the Department 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 Department Inspector.

*Section 5. NON-DIMINUTION OF BENEFITS.* Nothing in the Wage Order and this Rules shall be construed as authorizing the reduction or any existing wage rates, allowances and benefits under existing laws, decrees, issuances, executive orders and/or under any contract or agreements between workers and employers.

*Section 6. PAYMENT OF COST OF LIVING ALLOWANCE TO COVERED EMPLOYEES.* a) Covered employees shall be paid the required COLA 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 COLA, provided that they reported for work on the last working day immediately preceding the holiday.

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

*Section 7. PENAL PROVISION.* Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed COLA under the Wage Order shall be subject to the penalties provided for in R.A. 8188.

*Section 8. PROHIBITION AGAINST INJUNCTION.* No preliminary injunction or temporary restraining order may be issued by any court, tribunal or other entity against the Wage Order or any proceedings before this Regional Board.

*Section 9. EFFECTS ON OTHER ISSUANCES.* The provisions of existing laws and decrees on wages and their implementing rules and regulations and issuances not otherwise repealed, modified or inconsistent with the Wage Order and this Rules shall continue to have full force and effect.

*Section 10. EFFECTIVITY.* This Rules shall take effect January 1, 1998.

Done in Davao City, Philippines, this 20<sup>th</sup> day of January, 1998.

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

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

Dissenting as to amount and coverage:  
(SGD) MR. JORGE G. ALEGARBES  
Labor Representative  
Member, RTWPB-XI

(OUT-OF-TOWN)  
MS. VIRGINIA T. CAMUS  
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(SGD) DIR. MERLY M. CRUZ  
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(SGD) DIR. SANTIAGO G. ENGINCO, JR.  
NEDA-XI Regional Director  
Vice-Chairman, RTWPB-XI

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

Approved this 23<sup>rd</sup> day of February 1998, subject to the notations below:

(SGD) CRESENCIANO B. TRAJANO  
Secretary

NOTATIONS TO THE RULES IMPLEMENTING WO NO. RTWPB-XI-06

1. The terms defined under Section 1, Chapter I, items i, k, l, and m (Plantation Agricultural workers, Retail Establishment, Service Establishment, and Cottage/Handicraft Establishment) shall be deleted:
2. The last two sentences under Section 3, Chapter II (Workers Paid by Results) shall be deleted.
3. Section 1b, Chapter II shall be modified as follows:

Private educational institutions shall be governed by the provisions of R.A. 6728 on wage adjustments: provided, however, that the COLA prescribed under the Wage Order shall be complied with.

(Published in the Mindanao Daily Mirror on March 5, 1998)