

Republic of the Philippines
 Department of Labor and Employment
 National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
 Regional Board No. XII, Cotabato City

WAGE ORDER NO. SMR-10
PROVIDING FOR NEW MINIMUM WAGE (NMW)
AND PROVISIONAL EMERGENCY RELIEF ALLOWANCE (PERA)
FRO PRIVATE SECTOR WORKERS IN THE REGION

WHEREAS, the Regional Board adheres to the principle of providing minimum wage as a safety-net measure to the most vulnerable group of workers ensuring a decent minimum standard of living;

WHEREAS, the Board has not received any official petition for wage increase but, motu proprio and as mandated, conducted a series of public consultation-workshop on wages incomes and productivity on November 6, November 8, November 9, November 13 and November 14, 2001 in Cotabato City, Tacurong City, Kidapawan City, Koronadal City, and General Santos City, respectively;

WHEREAS, based on the public consultations conducted, the Regional Board finds it necessary to adjust the prevailing daily and hourly wage rates both in the form of basic pay and allowance in conformity with the requirement of the prevailing socio-economic conditions in the region;

WHEREAS, the adoption of a single minimum daily wage rate and minimum hourly wage rate has drawn support and acceptance during the public consultations conducted in the region;

WHEREAS, the Regional Board takes cognizance of the integration of new Region XII areas in the prevailing wage structure of the region as provided for in Executive Order No. 36 Series of 2001, which provides for the reorganization of administrative regions in Mindanao;

WHEREAS, the Regional Board consistently takes cognizance of the development goals enunciated in the Region XII's Medium Term Development Plan (2001-2004), which give priority to the eradication of absolute poverty, attainment of food security, maintenance of ecological integrity, infrastructure development and sustaining peace and development;

NOW, THEREFORE by virtue of the power vested under Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of Region 12, hereby issues this Wage Order:

Section 1 - AMOUNT AND EFFECTIVITY OF NEW MINIMUM WAGE AND PROVISIONAL EMERGENCY RELIEF ALLOWANCE - The amount and effectivity of the New Minimum Wage (NMW) and Provisional Emergency Relief Allowance (PERA) on a daily and hourly basis in the region are as follows:

Mode of Payment	Effective 16 January 2002 <i>For the cities of Cotabato, Kidapawan, and Tacurong; and, for the provinces of North Cotabato and Sultan Kudarat</i>		Effective 01 May 2002 <i>For the Cities of Cotabato, Kidapawan, Tacurong, Koronadal, and General Santos; and, for the provinces of North Cotabato, South Cotabato, Sultan Kudarat, and Sarangani</i>	
	NMW	PERA	NMW	PERA
Daily	P160.00	P10.00	P170.00	P10.00
Hourly	P20.00	P1.25	P21.25	P1.25

Section 2 - COVERAGE - This Wage Order (Order) applies to minimum wage earners only in the region. The household or domestic helpers and persons employed in the personal service of another, including family drivers, are not covered in this Wage Order.

Section 3 - BASIS OF MINIMUM WAGE - The new minimum wage and PERA prescribed under this Order shall be for the normal working hours, which shall not exceed eight hours work a day.

Section 4 - 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 prescribed minimum wage rate under the Order for the normal working hours that shall not exceed eight hours a day, or a proportion of the new minimum wage rates for work of less than the normal working hours.

Section 5 - WAGES OF SPECIAL GROUPS OF WORKERS - Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the new minimum wage and shall be entitled to

receive one hundred percent (100%) of the PERA prescribed in this Order.

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

Section 6 - APPLICATION TO PRIVATE EDUCATIONAL INSTITUTIONS - In the case of private educational institutions, the new minimum wage and PERA as prescribed herein shall take effect on the dates specified in Section 1 of this Wage Order.

Section 7 - APPLICATION TO CONTRACTORS - In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed new minimum wage and PERA of the workers shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended accordingly. In the event, however, that the principal or clients fails to pay the prescribed new minimum wage and PERA, the construction/service contractor shall held jointly and severally liable with his principal or client.

Section 8 - APPEAL TO THE COMMISSION - Any party aggrieved by this Wage Order may file a verified appeal with the National Wages and Productivity Commission (hereinafter referred as the Commission) through the Regional Board within ten (10) calendar days from the publication of this Order.

Section 9 - EFFECT OF FILING OF APPEAL - The filing of the appeal does not operate to stay the Wage Order unless the party appealing such Wage Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding increase to employees affected by the Wage Order in the event such Wage Order is affirmed.

Section 10 - EFFECTS ON THE EXISTING WAGE STRUCTURE - Where the application of the new minimum wage and PERA under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Art. 124 of the Labor Code as amended.

Section 11 - COMPLAINTS FOR NON-COMPLIANCE - Complaints for non-compliance with this Order shall be filed with the Regional Office of the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code, as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 12 - NON-COMPLIANCE OF BENEFITS - Nothing in this Order shall be construed to reduce any existing wage rates, allowances and benefits of any from under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 13 - PENAL PROVISION - Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed new minimum wage and PERA in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

Section 14 - PROHIBITION AGAINST INJUNCTION - No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity againts any proceeding before the Regional Board.

Section 15 - FREEDOM TO BARGAIN - This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 16 - REPORTING REQUIREMENT - Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Regional Board not later than January 31, 2002 and every year thereafter in accordance with the form prescribed by the Commission.

Section 17 - REPEALING CLAUSE - All laws, orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended or modified accordingly.

Section 18 - 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 19 - IMPLEMENTING RULES - The Regional Board shall prepare the necessary rules to implement this Order subject to approval of the Secretary of Labor and Employment.

Section 20 - EFFECTIVITY - This Wage Order shall take effect fifteen (15) days after its publication in a local newspaper of general circulation in the region.

APPROVED, December 19, 2001, General Santos City, Philippines.

(SGD) SIMPLICIO H. VILLARTA, JR.
Workers' Representative

(SGD) ANTONIO R. SANTOS, SR.
Employers' Representative

(SGD) JOEMARIE P. ANGELES
Workers' Representative

(SGD) ESTRELLITA J. TAMANO
Employers' Representative

(SGD) MA. LOURDES D. LIM
NEDA Director, Vice-Chairperson

(SGD) IBRAHIM K. GUIAMADEL
DTI Director, Vice-Chairperson

(SGD) AIDA M. ESTABILLO
DOLE Director
Chairperson

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Regional Board No. XII, Cotabato City
RULES IMPLEMENTING WAGE ORDER NO. SMR-10

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 19 of Wage Order No. SMR-10, the following rules are hereby issued for guidance and compliance by all concerned:

Rule I - General Provisions

Section 1. Title. - This Rules shall be known as the "Rules Implementing Wage Order No. SMR-10."

Section 2. Construction. - This Rules shall be liberally construed to carry out the objectives of RA 6727 and those existing laws and their rules and regulations on wages and other labor standards relating to hours of work, productivity, and other welfare benefits, including collective bargaining and negotiations.

Section 3. Scope. - This Rules shall govern the implementation of Wage Order No. SMR-10 issued by the Regional Tripartite Wages and Productivity Board in Region XII.

Section 4. Definition of Terms. - As used herein:

- a) "**Order**" refers to Wage Order No. SMR-10 promulgated by the Regional Board pursuant to its wage fixing authority;
- b) "**Department**" refers to the Department of Labor and Employment;
- c) "**Commission**" refers to the National Wages and Productivity Commission;
- d) "**Secretary**" refers to the Secretary of the Department of Labor and Employment;
- e) "**Regional Board**" refers to the Regional Tripartite Wages and Productivity Board in Region XII;
- f) "**Region XII**" refers to the SOCCSKSARGEN Mindanao Region (SMR) which covers the cities of Cotabato, General Santos, Kidapawan, Koronadal and Tacurong; and, the provinces of North Cotabato, Sangani, South Cotabato, and Sulatn Kudarat as provided for in Executive Order No. 36 Series of 2001;
- g) "**RA 6727**" means Republic Act No. 6727;
- h) "**Minimum Wage Rate**" is the lowest wage rate fixed by the Regional Board paid by an employer to an employee or worker for services rendered on normal working days and hours;
- i) "**PERA**" means the Provisional Emergency Relief Allowance granted by the Regional Board;
- j) "**Worker** " or "Employee" means any individual employed by an employer;
- k) "**Employer**" refers to any person, corporation, trust, firm, partnership association or entity acting directly or indirectly in the interest of the employer in relation to an employee or worker;
- l) "**Minimum Wage Earners**" refers to all private workers who are receiving, have been receiving, or entitled to receive the prescribed minimum wage rate regardless of their position, designation or status, and irrespective of the method by which their wages are paid;
- m) "**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 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.

Rule II - Minimum Wage Rate and Provisional Emergency Relief Allowance

Section 1. Amount and Effectivity of the Prescribed Minimum Wage Rate and Provisional Emergency Relief Allowance The amount and effectivity of the New Minimum Wage (NMW) and Provisional Emergency Relief Allowance (PERA) on a daily and hourly basis in the region are as follows:

Mode of Payment	Effective 16 January 2002 <i>For the cities of Cotobato, Kidapawan, Tacurong; and, for the provinces of North Cotabato and Sultan Kudarat</i>	Effective 01 May 2002 <i>For the Cities of Cotobato, Kidapawan, Tacurong, Koronadal, and General Santos; and, for the provinces of South Cotabato, North Cotabato, Sultan Kudarat, and Sarangani</i>	Effective 16 January 2002 <i>For All Areas</i>
	NMW	NMW	NMW
Daily	P160.00	P170.00	P10.00
Hourly	P20.00	P21.25	P1.25

Section 2. Coverage. - The provisions of this Rule shall apply to all minimum wage earners in the private sector in Region XII, regardless of their position, designation, or status and irrespective of the method by which they are paid, except household or domestic helpers and persons employed in the personal service of another, including family drivers.

Section 3. Basis of Minimum Wage. - The new minimum wage and PERA prescribed under the Order shall be for the normal working hours, which shall not exceed eight hours work a day.

The hours worked considered during or within the "normal working hours" include all time during which an employee is required to be on duty or to be at a prescribed workplace, and all time during which an employee is suffered or permitted to work. Rest period of short duration during normal working hours shall be counted as hours worked.

Section 4. Application to Workers and Employees in Private Educational Institutions. - In the case of private educational institutions, the new minimum wage and PERA as prescribed herein shall take effect on the dates specified in Section 1 of this Wage Order.

Section 5. Application to Workers in Contracted Works or Services. - In contracts for construction projects and for security, janitorial and similar services, the prescribed new minimum wage rates and PERA prescribed under the Order, 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 minimum wage rate, the construction/service contractor shall be held jointly and severally liable with his principal or client.

Section 6. Application to 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 prescribed minimum wage rate under the Order for the normal working hours that shall not exceed eight hours a day, or a proportion of the new minimum wage rates for work of less than the normal working hours.

The adjusted minimum wage for workers paid by results shall be computed in accordance with the following steps:

- a) $\frac{\text{Amount of increase in AMW} * - \text{Previous AMW}}{\text{Previous AMW}} \times 100 = \% \text{ increase};$
- b) Existing rate/piece x % increase = Increase in rate/piece;
- c) Existing rate/piece + Increase in rate/piece = Adjusted rate/piece

*Where AMW is the applicable minimum wage.

The wage rate 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 7. Wages of Special Groups of Workers. - Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the new minimum wage and shall be entitled one hundred percent (100%) of the PERA prescribed in the Order.

All recognized agreements under learners and apprentices programs entered into before January 16, 2002 shall be considered automatically amended insofar as their wage clauses are concerned to reflect the application of prescribed minimum wage and PERA in the Order.

Section 8. Suggested Formula in Determining the Equivalent Monthly Regional Minimum Wage - Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage:

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

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 390.90 \text{ days}^1}{12}$$

Where 391.50 days :

302 days - Ordinary working days
 18 days - 10 regular holidays x 200%
 66.30 days - 51 rest days x 130%
2.60 days - 2 special days x 130%
 391.50 days - Total equivalent number of days

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

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

Where 365 days:

302 days - Ordinary working days
 51 days - Rest days
 10 days - Regular Holidays
2 days - Special days
 365 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 314 \text{ days}}{12}$$

Where 314.6 days:

302 days - Ordinary working days
 10 days - Regular Holidays
2.6 days - 2 Special days² (if worked) x 130% (if considered paid: if actually worked, this is equivalent to 2.6 days)
 314.6 days - Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 262 \text{ days}}{12}$$

Where 262.6 days:

250 days - Ordinary working days
 10 days - Regular Holidays
2.6 days - 2 Special days (if worked) x 130% (if considered paid: if actually worked, this is equivalent to 2.6 days)
 262.6 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 do not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

¹ /Include premium for holidays and rest days

² /November 1 and December 31, under Executive Order No. 203 dated June 30, 1987

Section 9. Mobile and Branch Workers - The minimum wage rates and/or PERA of workers, who by nature of their work have to travel, shall be those applicable in the domicile or head office of the employer.

The minimum wage rates and/or PERA of workers working in branches or agencies of establishments within the Region shall be those applicable in the place where they are stationed.

Section 10. Transfer of Personnel. The transfer of personnel to areas outside the Region shall not be a valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfer. The workers transferred to the other Regions with higher wage rates shall be entitled to the minimum wage rate and/or allowances applicable therein.

Section 11. Appeal to the Commission. - Any party aggrieved by the Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty calendar days from the date of filing. A memorandum of appeal, which shall state the grounds, relied upon, and the arguments in support of the appeal shall accompany the appeal.

Section 12. Effect of Appeal. - The filing of the appeal does not operate to stay the Order unless the party appealing such Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment to employees affected by the Order of the corresponding increase, in the event such Order is affirmed.

Rule III - Special Provisions

Section 1. Effect on Existing Wage Structure. - Where the application of the prescribed minimum wage rate results in distortions in the wage structure within an establishment, which gives rise to dispute therein, such dispute shall first be settled voluntarily between the parties.

In cases where there are collective bargaining agreements or recognized labor unions, the employer and the union shall negotiate to correct the distortions 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, the voluntary arbitrator shall decide the dispute, or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective bargaining agreements or recognized labor unions, the employers and workers shall endeavour to correct such distortions. Any dispute arising there from shall be settled through the National Conciliation and Mediation Board and if it remains unresolved after ten (10) calendar days of conciliation, the same shall be referred to the appropriate branch of the National Labor Relations Commission (NLRC). The NLRC shall conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

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

Section 2. Complaints for Non-Compliance. - Complaints for non-compliance with the Order shall be filed with the Regional Office of the Department having jurisdiction over the workplace and shall be the subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

Section 3. 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 wage rates and other benefits granted by law or any Wage Order. In the conduct of inspection in unionised 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 the case of non-unionized establishments, a worker representing the workers in the said company will accompany the inspectors.

Section 4. Penal Provision. - Pursuant to the provisions of Section 12 of RA 6727, as amended by Republic Act No.8188, any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay the prescribed increase in the Order shall be punished by a fine of not less than Twenty-five thousand pesos (P25,000.00) nor more than One hundred thousand pesos (P100,000) 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. 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 any payment of indemnity shall not absolve the employer from the criminal liability imposed under the Act.

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 5. Non-diminution of Benefits. - Nothing in the Order and in this 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 the employers.

Section 6. Freedom to Bargain. - The Order and these Rules shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages and flexible working arrangements with their respective employers.

Section 7. Reporting Requirements. - Any person, company, corporation, partnership or any entity engaged in business shall submit a verified itemized listing of their labor component to the Board not later than January 31, 2001 and every year thereafter in accordance with the form prescribed by the Commission.

Section 8. Prohibition Against Injunction. - No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or Regional Board.

Section 9. Repeal and Separability. - 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 Order and this Rules shall continue to have full force and effect.

If any part or provision of the Order and this Rules, or application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such provision or parts thereof to other persons or circumstances shall remain valid.

Section 10. Effectivity. - This Rules shall take effect on 16 January 2002.

APPROVED, December 19, 2001, General Santos City, Philippines.

(SGD) SIMPLICIO H. VILLARTA, JR.
Workers' Representative

(SGD) ANTONIO R. SANTOS, SR.
Employers' Representative

(SGD) JOEMARIE P. ANGELES
Workers' Representative

(SGD) ESTRELLITA J. TAMANO
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(SGD) MA. LOURDES D. LIM
NEDA Director, Vice-Chairperson

(SGD) IBRAHIM K. GUIAMADEL
DTI Director, Vice-Chairperson

(SGD) AIDA M. ESTABILLO
DOLE Director
Chairperson

APPROVED this 13th day of February 2002, subject to the notation contained below, hereof.

(SGD) PATRICIA A. STO TOMAS
Secretary

NOTATION TO THE RULES IMPLEMENTING WAGE ORDER NO. SMR-10

The formula in Section 6, Rule II (Application to Workers Paid by Results) should read as follows:

- a. Amount of increase in AMW/previous AMW x 100 = % increase