

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. RB XII -12  
PROVIDING FOR NEW MINIMUM WAGE RATES  
FOR PRIVATE SECTOR WORKERS IN REGION XII**

**WHEREAS**, under RA 6727 (The Wage Rationalization Act), the Regional Tripartite Wages and Productivity Boards (Regional Boards) are mandated to determine and fix minimum wage rates in their respective regions;

**WHEREAS**, Regional Board No. XII issued Wage Order No. RBXII-11 granting wage increase to covered workers in the private sector in Region XII, effective 01 September 2004;

**WHEREAS**, Section 3, Rule IV of NWPC Revised Rules of Procedures on Minimum Wage Fixing provides that any Wage Order issued by the Board may not be disturbed within 12 months from effectivity and no petition for wage increase shall be entertained within the said period, except when there is a supervening condition such as extraordinary increase in prices of petroleum products and basic goods/services which demands a review of minimum wage rates as determined by the Board and confirmed by the Commission;

**WHEREAS**, the Regional Board has determined as confirmed by the National Wages and Productivity Commission that a supervening condition exists in the region due to the 1) unmitigated oil price increases and increase in prices of manufactured goods, agricultural products, and basic services 2) increase in electricity rate, 3) transport fare increase, and 4) the erosion in the purchasing power of peso;

**WHEREAS**, the Regional Board giving due notice to all concerned sectors, motu proprio, conducted public consultations, dialogues and hearings with tripartite sectors, employers' and workers' groups, local government officials and other interested parties in the region on 04, 23 and 24 May 2005, all at Koronadal City to determine the propriety of issuing new wage order;

**WHEREAS**, consistent with the government's policy of achieving higher levels of productivity to preserve and generate jobs and to augment the income of workers, there is a need to build the capacity of business enterprises to be competitive through productivity improvement and gain sharing programs;

**WHEREAS**, there is a need to grant relief of private sector workers in Region XII to help them cope with the rising cost of living without impairing the productivity and viability of business and industry therein;

**NOW, THEREFORE**, by virtue of the power vested under Republic Act No. 6727, the Regional Tripartite Wages and Productivity Board-Region XII, hereby issues this Wage Order:

**Section 1. Category For Retail/Service Establishments.** Upon the effectivity of this Order, the category of retail/service establishments shall be added to the existing classification of industries/sectors of Non-Agriculture and Agriculture.

**Section 2. Grant of Cost of Living Allowance (COLA).** Upon the effectivity of this Order, the minimum wage workers and employees in the private sector in Region XII shall receive the following COLA:

- a. Thirteen pesos and fifty centavos (P13.50) per day for those in the non-agriculture industry/sector;
- b. Ten pesos (P10.00) per day for those in the agriculture industry/sector; and,
- c. Six pesos (P6.00) for those in the retail/service establishments.

**Section 3. New Minimum Wage Rates.** The daily minimum wage rates shall be as follows:

Industry/Sector	Minimum Wage Rates under W.O. No. RB XII-11	COLA under this Order	Total
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Non-Agriculture	P200.00	P13.50	P213.50
Agriculture	P190.00	P10.00	P200.00
Retail Service Establishments	P200.00	P6.00	P206.00

**Section 4. Coverage.** The new minimum wage rates in this Order shall apply to minimum wage workers and employees in the private sector in the region, regardless of position, designation, or status of employment and irrespective of the methods by which their wages are paid.

Not covered by this Order are household or domestic helpers, persons employed in the personal service of another, including family drivers; workers of registered or certified Barangay Micro Business Enterprises (BMBEs) pursuant to Republic Act 9178.

**Section 5. Exemptible Category.** Upon application with and as determined by the Board in accordance with the NWPC Rules on Exemptions, the establishments with total assets, including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, are not more than three million pesos (P3,000,000.00), and which establishments are not registered as Barangay Micro Business Enterprises (BMBEs), may be exempted from the applicability of this Order.

**Section 6. Basis Of Minimum Wage.** The minimum wage rates prescribed under this Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

**Section 7. Creditable Wage Increases/Allowance.** Wage increases/allowances granted by an employer within five (5) months prior to the effectivity of this Order shall be credited as compliance herewith, provided where such wage increases/allowances are less than the prescribed adjustment, the employer shall pay the difference.

Such creditable increases/allowances shall not include anniversary wage increases, merit wage increases, and those resulting from regularization or promotion of employees.

**Section 8. Productivity Based Wages.** In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement gain-sharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

**Section 9. Application To Private Educational Institutions.** In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2005-2006 shall be considered as compliance with the increase set forth herein; provided that if such increase is less than the prescribed adjustment, the employer shall pay the difference in the School Year 2006-2007.

Private educational institutions, which have not increased their tuition fees for the School Year 2005-2006, may defer compliance with the provisions of this Order until the beginning of School Year 2006-2007.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2006-2007.

**Section 10. Application to Contractors.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase set forth herein shall be borne by the principal or client and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the contractor shall be jointly and severally liable with the principal or client.

**Section 11. 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 rates under this Order for the normal working hours which shall not exceed eight hours work a day, or a proportion thereof for work of less than eight (8) hours.

**Section 12. Wages Of Special Groups Of Workers.** Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the minimum wage rates prescribed in this Order.

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

All qualified handicapped workers and employees shall receive the applicable wage rates prescribed in this Order pursuant to R.A. 7277

**Section 13. Effects On Existing Wage Structure Or Wage Distortion.** Where the application of the adjustment prescribed under this Order results in distortion in the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code of the Philippines, as amended.

**Section 14. Freedom To Bargain.** This Order shall not be construed to prevent workers from bargaining for higher wages with their respective employers.

**Section 15. 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 of the Philippines, as amended, without prejudice to criminal prosecution, which may be undertaken against those who fail to comply.

**Section 16. Non-Diminution Of Benefits.** Nothing in this Order shall be construed to reduce any existing wage rate, allowance and benefit of any form under existing laws, decrees, issuances, and executive orders or under any contract or agreement between workers and employers.

**Section 17. Appeal To The Commission.** Any party aggrieved by this Order may file a verified appeal with the National Wages and Productivity Commission through the Board within ten (10) calendar days from the publication of this Order.

**Section 18. Effect Of Filing Of Appeal.** The filing of the appeal does not operate to stay this Order unless the party appealing this Order shall file with the Commission an undertaking with a surety or sureties satisfactory to the Commission for payment of the corresponding wage adjustment to employees affected by this Order in the event that this Order is affirmed.

**Section 19. Penal Provision.** Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage rates in accordance with this Order shall be subject to the penal provisions under RA 6727, as amended by RA 8188.

**Section 20. 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 21. 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 Board not later than January 31, 2006 and every year thereafter in accordance with the form as prescribed by the Commission.

**Section 22. Repealing Clause.** All orders, issuances, rules and regulations, or parts thereof inconsistent with the provisions of this Order are hereby repealed, amended or modified accordingly.

**Section 23. Separability Clause.** If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts hereof shall remain valid.

**Section 24. Implementing Rules And Regulations.** The Board shall prepare the necessary rules and regulations to implement this Order subject to the approval of the Secretary of Labor and Employment.

**Section 25. Effectivity.** This Order shall take effect fifteen (15) days after its publication in a local newspaper of general circulation in the region.

APPROVED, May 30, 2005, Cotabato City, Philippines.

(Sgd) **SIMPLICIO H. VILLARTA, JR.**  
Member  
Workers' Representative

(Sgd) **ANTONIO R. SANTOS, SR.**  
Member  
Employers' Representative

(Sgd) **JOEMARIE P. ANGELES**  
Member  
Workers' Representative

(Sgd) **EUGENIO U. SOYAO**  
Member  
Employers' Representative

(Sgd) **HADJA SITTIE MARIAM (MA  
LOURDES) D. LIM**  
NEDA Director  
Vice-Chairperson

(Sgd) **IBRAHIM K. GUIAMADEL**  
DTI Director  
Vice-Chairperson

(Sgd) **CYRIL L. TICAO**  
OIC - DOLE Director  
Chairperson

Republic of the Philippines  
Department of Labor and Employment  
National Wages and Productivity Commission  
**REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD**  
Region XII, Koronadal City

**RULES IMPLEMENTING WAGE ORDER NO. RB XII - 12**

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 24 of Wage Order No. RB XII -12, 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. RB XII -12."

**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. Definition Of Terms.** As used in this Rules:

- a) **"Order"** refers to Wage Order No. RB-XII-12 promulgated by the Board pursuant to its wage fixing authority;
- b) **"Board"** refers to the Regional Tripartite Wages and Productivity Board in Region XII;
- c) **"Department"** refers to the Department of Labor and Employment;
- d) **"Commission"** refers to the National Wages and Productivity Commission;
- e) **"Secretary"** refers to the Secretary of the Department of Labor and Employment;
- f) **"Regional Office"** refers to office of the Department of Labor and Employment in the region;
- g) **"Region XII"** covers the Cities of Cotabato, General Santos, Kidapawan, Koronadal and Tacurong; and, the Provinces of North Cotabato, Sarangani, South Cotabato, and Sultan Kudarat as provided for in Executive Order No. 36, Series of 2001;
- h) **"RA 6727"** means Republic Act No. 6727;
- i) **"Wage"** shall mean the remuneration of earnings, however, designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the same, which is payable by an employer to an employee under a written or unwritten contract of employment for work done or to be done, or for services rendered and includes the fair and reasonable value, as determined by the Secretary of Labor, 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;
- j) **"Basic Wage"** means all the remuneration or earnings paid by an employer to worker for services rendered on normal working days and hours, but does not include cost of living allowances, profit, sharing investments, premium payments, 13th month pay and other monetary benefits, which are not considered as part of or integrated into the regular salary;
- k) **"COLA"** or Cost of Living Allowance granted under the Order to be paid by an employer to a worker for services rendered intended to help the latter cope with the rising cost of living and is not considered part of the basic wage;
- l) **"Minimum Wage"** refers to the lowest wage that an employer can pay his/her workers as fixed by the Board which may consist of the basic wage only or the sum of the basic wage and COLA, if there is any;
- m) **"Minimum Basic Wage"** means the lowest basic wage fixed by the Board that an employer should pay his/her workers or employees for services rendered on normal working days and hours;
- n) **"Wage Distortion"** means a situation where the application of 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;
- o) **"Agriculture"** refers to farming in all its branches and among others, includes 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 other 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, coconut, abaca, tobacco, pineapple, aquatic or other farm products;
  - p) **"Non-Agriculture Enterprises"** refers to establishments or industries other than agricultural enterprises;
  - q) **"Establishment"** refers to one principally engaged in one or predominantly one kind of economic activity at a single fixed location.
  - r) **"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.
  - s) **"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.
  - t) **"Establishment with Total Assets of Not More than Three Million (P3,000,000.00) Pesos"** refers to establishment with its total assets during the current year of effectivity of the Order amounting to not more than three million (P3,000,000.00) pesos and which is not registered as Barangay Micro Business Enterprise (BMBE) pursuant to RA 9178.

Total assets refer to all kinds of properties, real or personal used for the conduct of business, including proceeds of loans but excluding the land on which the particular business entity's office, plant and equipment are situated.

## RULE II NEW MINIMUM WAGE RATES

**Section 1. Category For Retail/Service Establishments.** Upon the effectivity of the Order, the category of retail/service establishments shall be added to the existing classification of industries/sectors of Non-Agriculture and Agriculture.

**Section 2. Grant Of Cost Of Living Allowance (COLA).** Upon the effectivity of the Order, minimum wage workers and employees in the private sector in Region XII shall receive the following COLA:

- a. Thirteen pesos and fifty centavos (P13.50) per day for those in the non-agriculture industry/sector;
- b. Ten pesos (P10.00) per day for those in the agriculture industry/sector; and,
- c. Six pesos (P6.00) for those in the retail/service establishments.

**Section 3. New Minimum Wage Rates.** The new daily minimum wage rates shall be as follows:

Industry/Sector	Minimum Wage Rates under W.O. No. RB XII-11	COLA under this Order	Total
Non-Agriculture	P200.00	P13.50	P213.50
Agriculture	P190.00	P10.00	P200.00
Retail Service Establishments	P200.00	P6.00	P206.00

**Section 4. Coverage.** The new minimum wage rates in the Order shall apply to minimum wage workers and employees in the private sector in the region, regardless of position, designation, or status of employment and irrespective of the methods by which their wages are paid.

Not covered by this Order are household or domestic helpers, persons employed in the personal service of another, including family drivers; workers of registered or certified Barangay Micro Business Enterprises (BMBEs) pursuant to Republic Act 9178.

**Section 5. Basis Of Minimum Wage.** The minimum wage rates prescribed under the Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

**Section 6. Suggested Formulae In Determining The Equivalent Monthly Regional Minimum Wage Rates.** Without prejudice to existing company practices, agreements or policies, the following formulae may be used as guides in determining the equivalent monthly minimum wage:

A. For the Cities of General Santos and Koronadal and the Provinces of Sarangani and South Cotabato:

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

$$\begin{array}{l} \text{Equivalent} \\ \text{Monthly} \\ \text{Rate (EMR)} \end{array} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 392.80 \text{ days}}{12}$$

Where 392.80 days :

300 days - Ordinary working days  
 20 days - 10 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%  
                   3.90 3 special days x 130%  
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 392.80 days - Total equivalent number of days

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

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

Where 365 days:

300 days - Ordinary working days  
 51 days - Rest days  
 11 days - Regular holidays  
 3 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 days:

300 days - Ordinary working days  
 11 days - Regular holidays  
 3 days - 3 special days (if worked) x 130%  
 -----  
 314 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 days:

248 days - Ordinary working days  
11 days - Regular holidays  
3 days - 3 special days (if worked) x 130%  
-----  
262 days - Total equivalent number of days

B. For the Cities of Cotabato, Kidapawan and Tacurong and the Provinces of North Cotabato and Sultan Kudarat:

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

$$\begin{array}{l} \text{Equivalent} \\ \text{Monthly} \\ \text{Rate (EMR)} \end{array} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 396.80 \text{ days}}{12}$$

Where 396.80 days :

296 days - Ordinary working days  
20 days - 10 regular holidays x 200%  
2.60 days - 1 regular holiday falling on last Sunday of August  
x 200% + (30% of 200%)  
8 days 4 Muslim Legal Holidays x 200%  
66.30 days - 51 rest days x 130%  
3.90 3 special days x 130%  
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396.80 days - Total equivalent number of days

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

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

Where 365 days:

296 days - Ordinary working days  
51 days - Rest days  
11 days - Regular holidays  
4 days Muslim Legal Holidays  
3 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 days:

296 days - Ordinary working days  
11 days - Regular holidays  
4 days Muslim Legal Holidays  
3 days - 3 special days (if considered paid; if actually worked this is equivalent to 3.90 days)  
-----  
314 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 days:

244 days - Ordinary working days  
 11 days - Regular holidays  
     4 days Muslim Legal Holidays  
     3 days - 3 special days (if considered paid; if actually worked this is equivalent to 3.90 days)  
 -----  
 262 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 eleven 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.

**Section 7. Creditable Wage Increases/Allowance.** Wage increases/allowances granted by an employer within five (5) months prior to the effectivity of the Order shall be credited as compliance therewith, provided where such wage increases/allowances are less than the prescribed adjustment, the employer shall pay the difference.

Such creditable increases/allowances shall not include anniversary wage increases, merit wage increases, and those resulting from regularization or promotion of employees.

**Section 8. Productivity Based Wages.** In order to sustain rising levels of wages and enhance competitiveness, businesses are strongly encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor management cooperation as well as implement gain-sharing programs. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

### RULE III EXEMPTION

**Section 1. Exemptible Category.** Upon application with and as determined by the Board in accordance with the NWPC Rules on Exemptions, establishments with total assets, including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, are not more than three million pesos (P3,000,000.00), and which establishments are not registered as Barangay Micro Business Enterprises (BMBEs), may be exempted from the applicability of the Order.

A. Criteria:

1. Its total assets during the current year of effectivity of the Order amounting to not more than three million (P3,000,000.00) pesos.
2. Total Assets refer to all kinds of properties, real or personal used for the conduct of business, including proceeds of loans but excluding the land on which the particular business entity's office, plant and equipment are situated.
3. Not registered as Barangay Micro Business Enterprise (BMBE).

B. Documents Required

- i. Proof of notice of filing of the application to the President of the union/contracting party if one is organized in the establishment, or if there is no union, a copy of a circular giving general notice of the filing of the application to all the workers in the establishment. The proof of notice, which may be translated in the vernacular, shall state that the workers' representative was furnished a copy of the application with all the supporting documents. The notice shall be posted in a conspicuous place in the establishment.

ii. Additional supporting documents

1. For New Establishments

- a) Mayor's Permit;
- b) Certificate of Registration as business enterprise from the appropriate government agency/ies (e.g., Securities and Exchange Commission (SEC) registration, in the case of corporation, partnership, or association; Cooperative Development Authority (CDA) registration, in the case of a cooperative; or Department of Trade and Industry (DTI) business name registration, in the case of sole proprietorship).
- c) Sworn Statement of Assets and Liabilities showing the list and values of assets owned and to be used in the conduct of business, which shall be supported by the following information;

- 1. Date of acquisition;
- 2. Acquisition cost; and,
- 3. Depreciated value.

- d) Copy of Loan Contract/s and Duly-Notarized Certification of Amortization Payments on the Loan (if any); and
- e) Duly notarized copy of Contract of Lease for assets used in the conduct of business covered by lease agreement (if any).

2. For Establishments Existing for at least One (1) Year, the following shall be submitted in addition to the aforementioned required documents:

- f) Audited Financial Statement for the last full accounting period; or Sworn Statement of Assets and Liabilities showing the list and values of assets owned and being used in the conduct of business, which shall be supported by the following information:
  - 1. Date of acquisition;
  - 2. Acquisition cost; and,
  - 3. Depreciated value.
- g) Income Tax Return (ITR) and Account Information Form duly filed with BIR

iii. The Board may require the submission of other pertinent documents to support the application for exemption.

**Section 2. Application For Exemption.** Within seventy-five (75) days from the date of publication of this Rules, an application for exemption shall be filed with the Board in two (2) copies by the owner/manager or duly authorized representative of an establishment either through personal service or by registered mail. The date of mailing shall be deemed as the date of filing.

All applications for exemption shall be under oath and must be supported by complete documents enumerated above.

**Section 3. Duration And Extent Of Exemption.** The Board shall grant full exemption of one (1) year from the effectivity of the Order to establishments found qualified for exemption;

**Section 4. Effect Of Application For Exemption.** Whenever an application for exemption has been duly filed with the Board, any action on any complaint for alleged non-compliance of the Order shall be deferred pending the resolution of the application.

**Section 5. Effect Of Disapproved Application For Exemption.** In the event that the application for exemption is not approved, 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 (1%) per month.

**Section 6. 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 7. 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 8. 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 the 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.

#### RULE IV PROVISIONS TO SPECIFIC GROUP OF WORKERS

**Section 1. Application To Private Educational Institutions.** In the case of private educational institutions, the share of covered workers and employees in the increase in tuition fees for School Year 2005-2006 shall be considered as compliance with the increase set forth herein; provided that if such increase is less than the prescribed adjustment, the employer shall pay the difference in the School Year 2006-2007.

Private educational institutions, which have not increased their tuition fees for the School Year 2005-2006, may defer compliance with the provisions of the Order until the beginning of School Year 2006-2007.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2006-2007.

**Section 2. Application to Contractors.** In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed wage increase set forth herein shall be borne by the principal or client and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed wage rates, the contractor shall be jointly and severally liable with the principal or client.

**Section 3. 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 rates under the Order for the normal working hours which shall not exceed eight hours work a day, or a proportion thereof for work of less than eight (8) hours.

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

- a) Amount of increase in AMW\*  
Previous AMW
- 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.

**Section 4. Wages Of Special Groups Of Workers.** Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the minimum wage rates prescribed in this Order.

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

All qualified handicapped workers and employees shall receive the applicable wage rates prescribed in the Order pursuant to R.A. 7277.

**Section 5. Mobile And Branch Workers.** The minimum wage rates 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 of workers working in branches or agencies of establishments within the Region shall be those applicable in the place where they are stationed.

**Section 6. 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 applicable therein.

## RULE V

### WAGE DISTORTION, WAGE AGREEMENTS, AND WAGE ADMINISTRATION

**Section 1. Effect On Existing Wage Structure.** Where the application of the adjustment prescribed under the Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code of the Philippines, as amended.

Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortion 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 within ten (10) calendar days from the time said dispute is 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 (NCMB) 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.

**Section 2. Effect Of Dispute.** The pendency of a dispute arising from wage distortion shall not in any way delay the applicability of any increase prescribed in the Order.

**Section 3. Freedom To Bargain.** The Order 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 4. 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, without prejudice to criminal prosecution, which may be undertaken against those who fail to comply.

**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.

## RULE VI SPECIAL PROVISIONS

**Section 1. Appeal To The Commission.** Any party aggrieved by the Order may file a verified appeal with the Commission through the Board within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) 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 2. 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 of the corresponding wage adjustment to employees affected by the Order, in the event such Order is affirmed.

**Section 3. 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 imposable 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 4. 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.

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's Inspector.

**Section 5. 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 6. 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 Board not later than January 31, 2006 and every year thereafter in accordance with the form as prescribed by the Commission.

**Section 7. Repealing Clause.** All orders, issuances, rules and regulations, or parts thereof inconsistent with the provisions of the Order are hereby repealed, amended or modified accordingly.

**Section 8. Separability Clause.** If, for any reason, any section or provision of the Order is declared unconstitutional or illegal, the other provisions or parts hereof shall remain valid.

**Section 9. Effectivity.** This Rules shall take effect upon the effectivity of the Wage Order.

**APPROVED,** May 30, 2005, Cotabato City, Philippines.

(Sgd) **SIMPLICIO H. VILLARTA, JR.**  
Member  
Workers' Representative

(Sgd) **ANTONIO R. SANTOS, SR.**  
Member  
Employers' Representative

(Sgd) **JOEMARIE P. ANGELES**  
Member  
Workers' Representative

(Sgd) **EUGENIO U. SOYAO**  
Member  
Employers' Representative

(Sgd) **HADJA SITTIE MARIAM (MA  
LOURDES) D. LIM**  
NEDA Director  
Vice-Chairperson

(Sgd) **IBRAHIM K. GUIAMADEL**  
DTI Director  
Vice-Chairperson

(Sgd) **CYRIL L. TICAO**  
OIC - DOLE Director  
Chairperson

**APPROVED** this 17th day of June, 2005.

(Sgd) **PATRICIA A. STO TOMAS**  
DOLE Secretary and NWPC Chairperson