



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

WAGE ORDER NO. RB XII-15

**PROVIDING FOR NEW MINIMUM WAGE RATES FOR THE PRIVATE SECTOR
WORKERS IN REGION XII**

WHEREAS, under R.A. No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Boards (RTWPBs) are mandated to determine and fix the applicable minimum wage rates in their respective regions and to issue the corresponding wage orders, subject to guidelines issued by the Commission;

WHEREAS, the RTWPB in Region XII has issued Wage Order No. RBXII-14 granting a Cost of Living Allowance to all covered private sector workers in the region effective October 8, 2008;

WHEREAS, Section 3, Rule IV of the NWPC Amended Rules of Procedure on Minimum Wage Fixing, provides that any Wage Order issued by the Board may not be disturbed for a period of twelve (12) months from its effectivity and no petition for wage increase shall be entertained within the said period. In the event, however, that supervening conditions, such as extraordinary increase in prices of petroleum products and basic goods/services demands a review of minimum wage rates, as determined by the Board and confirmed by the Commission, the Board shall proceed to exercise its wage fixing function even before the expiration of the said period;

WHEREAS, the RTWPB XII has determined and confirmed by the Commission, that supervening conditions exist in the region based on the dramatic and continuing increases in prices of petroleum products and basic goods and services which resulted in inflation rate higher than that projected by the Bangko Sentral ng Pilipinas; and the erosion of the purchasing power of the Peso;

WHEREAS, the RTWPB XII has resolved to review motu proprio the existing minimum wage rates in the region;

WHEREAS, the RTWPB XII, after due notice to all concerned sectors, conducted public consultations and public hearings on May 21 and 22, 2008 in Kidapawan City and General Santos City, respectively; to determine the propriety of issuing a new wage order;

WHEREAS, the results of the studies, public consultations, public hearings, and deliberations revealed that there is the need to provide new daily minimum wage rates for workers in the private sector in Region XII without impairing the productivity and viability of business and industries in the region;

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 programs;

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

SECTION 1. Grant of Additional Basic Wage and COLA. Upon the effectivity of this Wage Order, the minimum wage workers in the private sector in Region XII shall receive a basic wage increase and an additional Cost of Living Allowance (COLA), as follows:

1. Ten Pesos and Fifty Centavos (P10.50) in Basic Wage and Five Pesos (P5.00) additional COLA per day for those in the non-agriculture industry/sector;
2. Ten Pesos (P10.00) in Basic Wage and Three Pesos (P3.00) additional COLA per day for those in the agriculture-plantation industry/sector;
3. Eight Pesos (P8.00) in Basic Wage and Three Pesos (P3.00) COLA per day for those in the agriculture-non-plantation industry/sector;
4. Seven Pesos (P7.00) in Basic Wage and Three Pesos (P3.00) COLA per day for those in the retail/service establishments.

SECTION 2. The New Daily Minimum Wage Rates. Upon the effectivity of this Wage Order, the new daily minimum wage rates in Region XII shall be as follows:

Industry/Sector	Minimum Wage Rates under W.O. No. RB XII-14			Wage Adjustments Under W.O. RBXII-15		New Daily Minimum Wage Rates
	Basic Wage	COLA under W.O. No. RB XII-13	COLA under W.O. No. RB XII-14	Basic Wage	COLA	
Non-Agriculture	P213.50	P11.00	P5.00	P10.50	P5.00	P245.00
Agriculture ? Plantation	P200.00	P8.00	P4.00	P10.00	P3.00	P225.00
? Non-Plantation	P200.00	P5.00	P4.00	P8.00	P3.00	P220.00
Retail/Service Establishments ? Employing more than ten workers	P206.00	P6.00	P3.00	P7.00	P3.00	P225.00
? Employing Not more than ten workers	P206.00		P3.00	P7.00	P3.00	P219.00

SECTION 3. Coverage. The wage increases prescribed under this Wage Order shall apply to all minimum wage workers/employees in the private sector in Region XII,

regardless of their position, designation or status of employment, and irrespective of the method by which their wages are paid.

This Wage Order shall not cover household or domestic helpers; persons in the personal service of another, including family drivers; and, workers of registered Barangay Micro Business Enterprises (BMBEs).

SECTION 4. Basis of Minimum Wage Rates. The minimum wage rates prescribed under this Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours of work a day.

SECTION 5. Creditable Wage Increase/Allowances. Wage increases granted by an employer shall be credited as compliance with the prescribed increases set forth herein. In case the increases given are less than the prescribed minimum wage rates, the employer shall pay the difference.

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

SECTION 6. 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 7. 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 2008-2009 shall be considered as compliance with the prescribed minimum wage rates under this Wage Order. However, payment of any shortfall in the minimum wage rates set forth herein shall be covered starting School Year 2009-2010.

Private educational institutions, which have not increased their tuition fees for the School Year 2008-2009, may defer compliance with the provisions of this Wage Order until the beginning School Year 2009-2010.

In any case, all private educational institutions shall implement the minimum wage rates prescribed herein starting School Year 2009-2010.

SECTION 8. Application to Contractors. In case of contracts for construction projects and for security, janitorial and similar services, the increase in the prescribed minimum wage rates under this Wage Order shall be borne by the principal or client of the contractor and the contract shall be deemed amended accordingly as mandated under the Labor Code.

In the event, however, that the principal or client fails to pay the prescribed minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

SECTION 9. Workers Paid By Result. All workers paid by result, including those who are paid on piecework, “*takay*,” “*pakyaw*” or task basis, shall be entitled to not less than the prescribed minimum wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

SECTION 10. Wages of Special Groups of Workers. Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in this Wage Order.

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

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed herein pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

SECTION 11. Exemptions. The following may be exempted from the applicability of this Wage Order upon application with and as determined by the Board, based on documentation and other requirements in accordance with applicable rules and regulations issued by the National Wages and Productivity Commission (Commission):

- a. 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, of not more than three million pesos (P3,000,000.00), and which establishments are not registered as Barangay Micro Business Enterprises (BMBEs), and
- b. Distressed Establishments.

SECTION 12. Effect of Application for Exemption. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance thereto shall be deferred pending its resolution. In the event that the application for exemption is not granted, the applicant firm shall pay the appropriate compensation due to the covered workers as provided for in this Wage Order plus interest of one percent (1%) per month, retroactive from the effectivity of this Wage Order.

SECTION 13. Effects on Existing Wage Structure. Where the application of the increases or adjustments in the prescribed minimum wages rates under this Wage 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 Wage 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 Wage 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 Wage 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 Wage 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 Wage Order.

SECTION 18. Effects of Filing of Appeal. The filing of the appeal does not operate to stay this Wage Order unless the party appealing this Wage 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 Wage Order in the event that this Wage 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 minimum wage rates in accordance with this Wage 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, 2009 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 Wage Order are hereby repealed, amended or modified accordingly.

SECTION 23. Separability Clause. If, for any reason, any section or provision of this Wage 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 Wage Order subject to the approval of the Secretary of Labor and Employment.

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

APPROVED, 22 May 2008, Koronadal 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 D. LIM
NEDA Director
Vice-Chairperson

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

(Sgd.)
MA. GLORIA A. TANGO
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 – 15

Pursuant to Section 6, Rule IV of the NWPC Amended Rules of Procedure on Minimum Wage Fixing and Section 24 of Wage Order No. RB XII -15, 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 -15.”

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-15 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 the 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 the 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) “**Plantation Agricultural Enterprise**” is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as “**Non-Plantation Agricultural Enterprise**”;
- q) “**Non-Agriculture Enterprises**” refers to establishments or industries other than agricultural enterprises;
- r) “**Establishment**” refers to one principally engaged in one or predominantly one kind of economic activity at a single fixed location;
- s) “**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;
- t) “**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;
- u) “**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.

- v) “**Distressed Establishments**” refer to establishments which meet the criteria enumerated in Section 1, Rule IV of this Rules.
- w) “**Paid-up Capital**” refers to the total amount of shareholder capital that has been paid by shareholders.
- x) “**Capital**” refers to paid-up capital at the end of the last full accounting period, in the case of corporations or total invested capital at the beginning of the period under review, in the case of partnerships and single proprietorships.
- y) “**Capital Impairments**” refers to the diminution of capital due to accumulated losses.
- z) “**Stockholders’ Equity**” refers to the residual interest in the assets of an entity that remains after deducting its liabilities. It is total assets minus liabilities. It is the same as equity and net worth.

- aa) **“Full Accounting period”** refers to the period of twelve (12) months or one year of business operations.
- bb) **“Interim Period”** refers to a financial period shorter than a full financial year (most typical a quarter or half year)
- cc) **“Deficit”** refers to the negative balance of the retained earnings account of a corporation. Retained earnings represent the cumulative balance of periodic earnings, dividend distributions, prior period adjustments and other capital adjustments.
- dd) **“Total Assets”** refer to the things of value owned by the business such as cash, machines, building and land which can be measured or expressed in money terms.
- ee) **“Net Loss”** refers to actual loss suffered by a company after deducting expenditures including overhead and interest charges from revenues.
- ff) **“Financial Statement”** refers to a written report which quantitatively describes the financial health of a company. This includes the following: balance sheet ,income statement, statement of changes in equity, cash flow statement and notes to financial statement.
- gg) **“Stock Corporation”** refers to one organized for profit and issues shares of stock to its members.
- hh) **“Non-stock Non-Profit”** refers to one organized principally for public purposes such as charitable, educational, cultural or similar purposes and does not issue shares of stock to its members.
- ii) **“Partnership”** refers to persons who bind themselves to contribute money, property or industry to a common fund with the intention of dividing the profits among themselves or for the exercise of a profession.
- jj) **“Single Proprietorship”** refers to a business unit owned and controlled by only one person.
- kk) **“Cooperative”** refers to duly registered association pursuant to RA 6938 (Cooperative Code of the Philippines) and other laws.
- ll) **“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 Mayors Office.
- mm) **“Quasi-banks”** refer to institution such as investment houses and financing companies performing quasi-banking functions as defined by the Bangko Sentral ng Pilipinas.
- nn) **“Conservatorship”** refers to a remedy resorted to by the monetary board in case a bank or quasi-bank is in a state of continuing inability or unwillingness to maintain condition of liquidity deemed adequate to

protect the interests of the depositors and creditors. A conservator is appointed to manage the establishment in order to restore its viability

- oo) **“Receivership/liquidation”** refers to remedy resorted by the Monetary Board in case a bank or quasi-bank is (a) unable to pay its liabilities as they become due in the ordinary course of business (b) has insufficient realizable assets determined by the Bangko Sentral ng Pilipinas to meet its liabilities’ (c) cannot continue in business without involving probable losses to its depositors or creditors; or (d) has wilfully violated a cease and desist order under Section 37 that has become final involving acts or transactions which amounts to fraud or dissipation of the assets of the institution.
- pp) **“Under Corporate Rehabilitation”** refers to establishments that are placed under a rehabilitation receiver by a court of competent jurisdiction.

RULE II NEW MINIMUM WAGE RATES

SECTION 1. Grant of Additional Basic Wage and COLA. Upon the effectivity of the Order, the minimum wage workers in the private sector in Region XII shall receive a basic wage increase and an additional Cost of Living Allowance (COLA), as follows:

5. Ten Pesos and Fifty Centavos (P10.50) in Basic Wage and Five Pesos (P5.00) additional COLA per day for those in the non-agriculture industry/sector;
6. Ten Pesos (P10.00) in Basic Wage and Three Pesos (P3.00) additional COLA per day for those in the agriculture-plantation industry/sector;
7. Eight Pesos (P8.00) in Basic Wage and Three Pesos (P3.00) COLA per day for those in the agriculture-non-plantation industry/sector;
8. Seven Pesos (P7.00) in Basic Wage and Three Pesos (P3.00) COLA per day for those in the retail/service establishments.

SECTION 2. The New Daily Minimum Wage Rates. Upon the effectivity of the Order, the new daily minimum wage rates in Region XII shall be as follows:

Industry/Sector	Minimum Wage Rates under W.O. No. RB XII-14			Wage Adjustments Under W.O. RBXII-15		New Daily Minimum Wage Rates
	Basic Wage	COLA under W.O. No. RB XII-13	COLA under W.O. No. RB XII-14	Basic Wage	COLA	
Non-Agriculture	P213.50	P11.00	P5.00	P10.50	P5.00	P245.00
? Agriculture Plantation	P200.00	P8.00	P4.00	P10.00	P3.00	P225.00
? Non-Plantation	P200.00	P5.00	P4.00	P8.00	P3.00	P220.00

Retail/Service Establishments						
? Employing more than ten workers	P206.00	P6.00	P3.00	P7.00	P3.00	P225.00
? Employing Not more than ten workers	P206.00		P3.00	P7.00	P3.00	P219.00

Section 3. 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 the Order are household or domestic helpers, persons employed in the personal service of another, including family drivers; and workers of registered or certified Barangay Micro Business Enterprises (BMBEs) pursuant to Republic Act 9178.

Section 4. 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 5. 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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 392.50 \text{ days}}{12}$$

Where 392.50 days :

299	days -	Ordinary working days
22	days -	11 regular holidays x 200%
67.60	days -	52 rest days x 130%
3.90		3 special days x 130%
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392.50	days -	Total equivalent number of days

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

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

Where 365 days:

299	days -	Ordinary working days
52	days -	Rest days
11	days -	Regular holidays
3	days -	Special days
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365	days -	Total equivalent number of days

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

$$\text{EMR} = \frac{\text{ADR} \times 313 \text{ days}}{12}$$

Where 313 days:

299	days -	Ordinary working days
11	days -	Regular holidays
3	days -	3 special days (if worked x 130%)
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313	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:

$$\text{EMR} = \frac{\text{ADR} \times 261 \text{ days}}{12}$$

Where 261 days:

247	days -	Ordinary working days
11	days -	Regular holidays
3	days -	3 special days (if worked x 130%)
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261	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:

$$\text{Equivalent Monthly Rate (EMR)} = \frac{\text{Applicable Daily Wage Rate (ADR)} \times 396.50 \text{ days}}{12}$$

Where 396.50 days :

295	days -	Ordinary working days
22	days -	11 regular holidays x 200%
8	days -	4 Muslim Legal Holidays x 200%
67.60	days -	52 rest days x 130%
3.90	days -	3 special days x 130%
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396.50 days - Total equivalent number of days

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

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

Where 365 days:

295	days -	Ordinary working days
52	days -	Rest days/Sundays
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:

$$\text{EMR} = \frac{\text{ADR} \times 313 \text{ days}}{12}$$

Where 313 days:

295	days -	Ordinary working days
11	days -	Regular holidays
4	days -	Muslim Legal Holidays
3	days -	3 special days
-----	-----	
313	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:

$$\text{EMR} = \frac{\text{ADR} \times 261 \text{ days}}{12}$$

Where 261 days:

243	days -	Ordinary working days
11	days -	Regular holidays
4	days -	Muslim Legal Holidays
3	days -	3 special days
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261	days -	Total equivalent number of days

Section 6. 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 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 2008-2009 shall be considered as compliance with the increase set forth under the Order. However, payment of any shortfall in the minimum wage rates set forth in the Order shall be covered starting School Year 2009-2010.

Private educational institutions, which have not increased their tuition fees for the School Year 2008-2009, may defer compliance with the provisions of the Order until the beginning of School Year 2009-2010.

In any case, all private educational institutions shall implement the wage rates prescribed herein starting School Year 2009-2010.

Section 2. Application to Contractors. In case of contracts for construction projects and for security, janitorial and similar services, the increase in the prescribed minimum wage rates under the Order shall be borne by the principal or client of the contractor and the contract shall be deemed amended accordingly as mandated under the Labor Code.

In the event, however, that the principal or client fails to pay the prescribed minimum wage rates, the construction/service contractor shall be jointly and severally liable with his principal or client.

Section 3. Workers Paid by Result. All workers paid by result, including those who are paid on piecework, "*takay*," "*pakyaw*" or task basis, shall be entitled to not less than the prescribed minimum wage rates per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

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

- a) $\frac{\text{Amount of increase in AMW}^*}{\text{Previous AMW}} \times 100 = \% \text{ increase}$
- 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.

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 applicable minimum wage rates prescribed in the Order.

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

All qualified handicapped workers shall receive the full amount of the minimum wage rate prescribed in the Order pursuant to Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons.

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 IV

EXEMPTION

Section 1. Exemptions. The following may be exempted from the applicability of the Order upon application with and as determined by the Board, based on documentation and other requirements in accordance with applicable rules and regulations issued by the National Wages and Productivity Commission (Commission):

- I. 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, of not more than three million pesos (P3,000,000.00), and which establishments are not registered as Barangay Micro Business Enterprises (BMBEs):

A. Criteria:

1. Its total assets during the current year of effectivity of the Order amounts 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 (For All Categories of Exemption)

- 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:
 - a) 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.
 - b) 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.

II. Distressed Establishments

A. Criteria

1. For Corporations/Cooperatives

a. Full Exemption

- a.1 When the deficit, as defined in Section 1 (N) of the Amended Rules on Exemption, as of the last full accounting period immediately preceding the effectivity of the Order amounts to 20% or more of the paid-up capital for the same period; or
- a.2 When an establishment registers capital deficiency i.e. negative stockholders' equity , as of the last full accounting period immediately preceding the effectivity of the Order.

b. Partial Exemption

b.1 When the deficit, as defined in Section 1 (N), as of the last full accounting period immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the paid-up capital for the same period.

c. Conditional Exemption

c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of the total assets.

2. For single Proprietorships/Partnerships

a. Full Exemption

a.1 When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review; or

a.2 When an establishment registers capital deficiency i.e negative net worth as of the last full accounting period immediately preceding the effectivity of the Order.

b. Partial Exemption

b.1 When the accumulated net losses for the last full two (2) full accounting periods immediately preceding the effectivity of the Order amounts to at least 10% but less than 20% of the total invested capital at the beginning of the period under review.

c. Conditional Exemption

- c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.
- 3. For Non-stock, Non-profit
 - a. Full Exemption
 - a.1 When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amount to 20% or more of the fund balance/members' contribution at the beginning of the period: or
 - a.2 When an establishment registers capital deficiency i.e negative fund balance/members' contributions as of the last full accounting period or interim period, if any, immediately preceding the effectivity of the Order.
 - b. Partial Exemption:
 - b.1 When the accumulated net losses for the last two (2) full accounting periods immediately preceding the effectivity of the Order amount to at least 10% but not more than 20% of the fund balance/members' contribution at the beginning of the period
 - c. Conditional Exemption:
 - c.1 When the actual net loss as of the interim period immediately preceding the effectivity of the Order amounts to at least 25% of total assets.
- 4. For Banks and Quasi-banks
 - a. Under receivership/liquidation

Exemption may be granted to a bank or quasi-bank under receivership or liquidation when there is a certification from the Bangko Sentral ng Pilipinas that it is under receivership or liquidation as provided in Section 30 of RA 7653, otherwise known as the New Central Bank Act.

- b. Under controllership/conservatorship
A bank or quasi-bank under controllership/conservatorship may apply for exemption as a distressed establishment under Section 3 A of the Amended Rules on Exemption.

5. Establishments Under Corporate Rehabilitation

Exemption may be granted to corporations, partnerships and associations under corporate rehabilitation when there is an order from the court of competent jurisdiction that it is under rehabilitation as provided in Section 6 Rule IV of the Interim Rules of Procedure on Corporate Rehabilitation (2000).

B. Documents Required:

For Distressed Establishments

- 1. For Corporations, Cooperatives, Single Proprietorships, Partnerships, Non-Stock Non-Profit Organizations:

- a. Full or Partial Exemption

- a.1. Audited financial statements (together with the Auditor's opinion and the notes thereto) for the last two (2 full accounting periods preceding the effectivity of the Order filed with and stamped "received" by the appropriate agency.

b. Conditional Exemption

b.1 Audited financial statement (together with the Auditor's opinion and the notes thereto) for the last full accounting period and interim quarterly financial statements for the period immediately preceding the effectivity of the Order.

b.2 To confirm the grant of conditional exemption, audited financial statements for the last full accounting period, stamped received by the appropriate government agency, to be submitted within 30 days from the lapse of the one year exemption period.

2. For Banks and Quasi-banks

Certification from Bangko Sentral ng Pilipinas that it is under receivership/liquidation.

3. For Establishments Under Corporate Rehabilitation

Order from a Court of competent jurisdiction that the establishment is under rehabilitation.

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 three (3) legible copies by the owner/manager or duly authorized representative of an establishment either through personal service or by registered mail provided that all the required documents in support of the application must be filed within the said 75-day filing period and that no further extension of filing and submission of required documents shall be allowed. The date of mailing shall be deemed as the date of filing.

Applications for exemption filed with the DOLE regional district or provincial offices are considered filed with the appropriate Board in the Region.

The application shall be under oath and accompanied by complete supporting documents as enumerated under Section 1, Rule IV.

Section 3. Duration and Extent of Exemption.

- A. Full exemption of one (1) year from effectivity of the Order shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 1, Rule IV of this Rules.
- B. Partial exemption of 50% from effectivity of the Order with respect to the amount or period of exemption shall be granted only in the case of distressed establishments under Section 1, Rule IV of this Rules.
- C. Conditional exemption of one (1) year from the effectivity of the Order shall be granted only in the case of distressed establishments under Section 1 of this Rule IV of this Rules. The conditional exemption shall be confirmed, as follows:

- c. 1 For Corporations

- When deficit as defined, as of the last full accounting period amounts to 20% or more of the paid-up capital for the same period.

- c.2 For Single Proprietorships And Partnerships

- When the net loss for the last two full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the total invested capital at the beginning of the period under review.

- c.3 For Non-Stock, Non- Profit Organizations

- When net loss for the last two full accounting periods immediately preceding the effectivity of the Order amounts to 20% or more of the fund balance/members' contribution at the beginning of the period.

- In the absence of such actual losses, the company shall pay its workers the wage increases due them under the Order, retroactive to the effectivity of the Order.

Section 4. Effect of Application for Exemption. Whenever an application for exemption has been duly filed with the Board, action on any complaint for alleged non-compliance thereto shall be deferred pending its resolution. In the event that the application for exemption is not granted, the applicant firm shall pay the appropriate compensation due to the covered workers as provided for in the Order plus interest of one percent (1%) per month, retroactive from the effectivity of the Order.

Section 5. 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 opposition shall be in three (3) legible copies, under oath and accompanied by pertinent documents, if any.

Section 6. 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 7. 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.

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

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 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.

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 therefrom 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. Effects of Filing 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 Section 12, 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.

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 unionized companies, Department inspectors shall always be accompanied by the President or other responsible officer of the recognized bargaining unit or of any interested union. In 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, 2009 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 on 16 June 2008.

APPROVED, 22 May 2008, Koronadal 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 D. LIM
NEDA Director
Vice-Chairperson

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

(Sgd.)
MA. GLORIA A. TANGO
DOLE Director
Chairperson

APPROVED, this 20th day of June, 2008.

(Sgd.)
MARIANITO D. ROQUE
Secretary

Department of Labor and Employment