

Republic of the Philippines
Autonomous Region in Muslim Mindanao
Department of Labor and Employment
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Cotabato City

WAGE ORDER NO. ARMM-05
Providing for New Minimum Wage Rate
for Agriculture Sector Only

WHEREAS, the prices of basic commodities and services have been increasing due to the inevitable price increase in oil and other petroleum products;

WHEREAS, in response thereto, the Regional Board conducted public consultations on the following dates and places: December 5, 1999, Malabang, Lanao del Sur; December 7, 1999 at Cotabato City for Maguindanao; December 12, 1999, Jolo, Sulu; and December 16, 1999, Bongao, Tawi-Tawi; and has been conducting a continuing study on the socio-economic indicators affecting the living conditions of the workers in the region;

WHEREAS, the Board en banc, unanimously decided on three considerations to be provided in the new wage order, to name:

- a) a status quo on the daily minimum of P140.00 for the non-agriculture sector;
- b) provision of new minimum wage rate to the agriculture sector only; and
- c) no application for wage exemption;

WHEREAS, as result, the Board has provided for new minimum wage rate for the Agriculture Sector only to boost the morale of farmers and fisherfolks who are the basic and dominant workers in the region;

NOW THEREFORE, by virtue of the power and authority vested under the Republic Act No. 6727, otherwise known as the Wage Rationalization Act, the Regional Tripartite Wages and Productivity Board of the Autonomous Region in Muslim Mindanao (RTWPB-ARMM), hereby issues this Wage Order.

Section 1 - Amount and Effectivity of New Minimum Wage - The minimum wage in the amount of P131.00 per day is provided to the Agriculture Sector only to take effect 15 days after publication of this Order.

Section 2 - Coverage - This increase shall cover the plantation and non-plantation workers in the agricultural sector.

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

Section 4 - Workers paid by Results - All workers paid by results, including those who are paid on piecework, "takay", "pakyaw" or task basis, shall be entitled to receive the prescribed minimum wage rate per eight (8) hours work a day, or a proportion thereof for working less than eight (8) hours.

Section 5 - Wages of Special Groups of Workers - Wages of apprentices and learners shall in no case be less than seventy - five (75%) of the applicable 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 the new prescribed wage rates.

Section 6 - Application for Contractors - In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increases in the wage rates of the workers shall be borne by the principal or clients of the construction/service contractors and the contract shall be amended accordingly.

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

Section 7 - Appeal to the Commission - Any party aggrieved by this Wage Order may file a verified appeal with the Commission through the Board within (10) calendar days from the publications of this Order.

Section 8 - Effect of Filing of Appeal - The filing of the appeal does not operate the stay the Order unless the party appealing such Order shall file with the Commission and undertaking with a surety or sureties satisfaction to the Commission for payment of the corresponding increase to employees affected by the Order in the event such Order is affirmed.

Section 9 - Effects on Existing Wage Structure - Where the application of the new minimum wage under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with procedure provided for under Article 124 of the Labor Code, as amended.

Section 10 - Exemptions - This Order shall not allow the application for wage exemptions from establishments of any category.

Section 11 - Creditable Wage Increase

(a) Wage increase granted in an organized establishment within three (3) months prior to the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein, provided in the Collective Bargaining Agreement (CBA) allowing creditability exists.

(b) In the case of the unorganized establishment, wage increase granted by the employer within six (6) months prior to the effectivity of this Order shall be credited as compliance.

In the event that increase given under (a) and (b) are less than the prescribed adjustment, the employer shall pay the difference. Such increase shall not include anniversary increase, merit increase and those resulting from the regularization or promotion of employees.

Section 12 - Effects on Existing Wage Structure - Where the application of the increase in the wage rates under this Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code as amended.

Section 13 - Complaints for Non-Compliance - Complaints for non-compliance with this Order shall be filed with the Regional Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code as amended, without prejudice to criminal prosecution which may be undertaken against those who fail to comply.

Section 14 - Non-Diminution of Benefits - Nothing in this Order shall be construed to reduce any existing wage rates allowances and benefits of any form under existing laws, decrees,

issuance's, executive orders and/or under any contract or agreement between the workers and employees.

Section 15 - Penal Provision - Any person, corporation, trust or firm, partnership, association or entity refuses or fails to pay the prescribed wage increase/allowance/rates in accordance with this Order shall be subject to the penal provision Under R.A. 6727, as amended by R.A. 8188.

Section 16 - 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 17 - Freedom to Bargain - This Order shall not be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

Section 18 - 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, 2001 and every year thereafter in accordance with the form prescribed by the Commission.

Section 19 - Repealing Clause - All laws, orders, issuance's, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended, or modified accordingly.

Section 20 - Separability Clause - If, for any reason, any section or provision of this Order is declared unconstitutional or illegal, the other provisions or parts shall remain valid.

Section 21 - Implementing Rules - The Board shall prepare the necessary rules to implement this Order subject to approval of the Secretary of Labor and Employment.

Section 22 - Effectivity - This Order shall take effect fifteen (15) days after publication in at least one (1) newspaper of general circulation in the region.

Approved: October 10, 2000, Cotabato City, Philippines.

(SGD) HON. GEORGE C. JABIDO
Member, Employers' Representative

(SGD) HON. FERRALDY P. SINSUAT
Member, Labor Representative

Vacant
Member, Employers' Representative

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(SGD) HON. DIAMADEL E. DUMAGAY
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(SGD) HON. JOSE I. LORENA
Chairman

Republic of the Philippines
Department of Labor and Employment
National Wage and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Autonomous Region in Muslim Mindanao
Cotabato City

RULES IMPLEMENTING WAGE ORDER No. ARMM - 05

RULE I - General Provisions

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 19 of Wage Order No. ARMM - 05, the following rules are hereby issued for guidance and compliance by all concerned.

Section 1. Title. These Rules shall be known as the "Rules Implementing Wage Order No. ARMM - 05".

Section 2. Definition of Terms.

- a. "Order" means Wage Order No. ARMM – 05
- b. "Commission or NWPC" refers to the National Wages and Productivity Commission.
- c. "Regional Board or Board" means the Regional Tripartite Wages and Productivity Board of ARMM.
- d. "Regional Department" means the Department of Labor and Employment in ARMM.
- e. "ARMM" refers to the geographic area in the Autonomous Region in Muslim Mindanao covering the provinces of Maguindanao, Lanao, Sulu, and Tawi - Tawi.
- f. "RA 8188" an act increasing the penalty and imposing double indemnity for violation of the prescribed wage increase in the wage rates amending for the purpose Section 12 of RA 6727 otherwise known as the Wage rationalization act;
- g. "Agriculture" refers to the farming in all its branches and among others, including the cultivation, growing, and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other products in farms or ponds and any activities performed by a farmer or on a farm as an incident to or in conjunction with some farming operations, but does not include the manufacturing and / or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products.
- h. "Plantation Agricultural Enterprises" is the one engaged in agriculture with an area of more than twenty four (24) hectares in a locality or which employes at least twenty (20) workers. Any other agricultural enterprise shall be considered as non-plantation agricultural enterprise.
- i. "Establishment" refers to an economic unit which engages in one or predominantly one kind of economic activity at a single fixed location.
- j. "Cottage/Handicapped Establishment" is one engaged in economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship and / or those capitalization does not exceed P1,500,000.00 as per SMED Council Resolution No. 3 Series of 1995.
- k. "Retail Establishment" is one principally engaged in the sale of goods to end users for personal or household use;
- l. "Service Establishment" is one principally engaged in the scale of of service to individuals for their own or household use and is generally recognized as such.

- m. "Basic Wage" means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost-of-living allowances, profit sharing payments, premiums payments, 13th month pay or other monetary benefits which are not considered as part or integrated into regular salary of the workers on the date the Order became effective;
- n. "Minimum Wage Rate" refers to the lowest wage rate that an employer can pay his workers, as fixed by the Board, which shall not lower than the applicable minimum wage rates;
- o. "Capitalization" means paid-up capital in the case of a corporation, and total invested capital in the case of a partnership or single proprietorship.
- p. "Stock Corporation" refers to one organized for profit and issues share of stocks to its members.
- q. "Partnership" refers to an association of two or more 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.
- r. "Single proprietorship" refers to a business unit owned and controlled by one person.

RULE II - Provision of New Minimum Wage Rate

Section 1. Coverage: Amount and Effectivity of New Minimum Wage Rate:

The new minimum wage in the amount of P 131.00 per day is provided for the Agriculture Sector to take effect 15 days after publication of this Order.

Section 2. Coverage:

The new minimum wage rate shall cover the plantation and non-plantation workers in the agriculture sector only. Not covered by this Order are workers in the industrial, commercial, retail & services, hospitals and in the academe sectors, as well as household, domestic helpers and persons employed in the personal service of another including family drivers.

Section 3. Basis of Minimum Wage:

The minimum wage rates prescribed herein shall be for the normal working hours, which shall not exceed eight hours work a day.

Section 4. Workers Paid by Results:

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

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

- a) Amount of increase in AMW*

$$\frac{\text{-----}}{\text{Previous AMW}} \times 100 = \% \text{ INCREASE.}$$
- 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 rate.

The wage rates of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code, as amended and its implementing regulations

Section 5. Wage of Special Groups of Workers

Wage of apprentices and learners shall in no case be less than 75 percent of the applicable minimum wage rates prescribed in the Order.

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

Section 6. Daily Minimum Wage Rates:

Upon the effectivity of Wage Order No. ARMM - 05, the Minimum Wage Rates in ARMM shall be as follows:

Minimum Daily Wage Rate



*New Minimum Wage for Agricultural Sector

Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rate:

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

$$\begin{array}{l} \text{Equivalent} \\ \text{Monthly} \\ \text{Rate (EMR)} \end{array} = \frac{\text{Applicable Daily Wage Rate (ADR)}}{12} \times 391.50 \text{ days}$$

Where 391.50 days:

- 302 days - Ordinary working days
- 18 days - 9 regular holidays x 200%
- 2.60 days - 1 regular holiday falling on last Sunday of August x 200% + (30% of 200%)
- 66.30 days - 51 rest days x 130%
- 2.60 days - 2 special days x 130%
- 391.50 days - Total Equivalent number of days

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

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

Where 365 days:

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

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

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

Where 314.6 days:

- 302 days - Ordinary working days
- 10 days - Regular Holidays
- 2.6 days - 2 Special days (if worked) x 130%
- 314.6 days - Total Equivalent number of days

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

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

Where 262.6 days:

- 250 days - Ordinary Working days
- 10 days - Regular Holidays
- 2.6 days - 2 Special days (if worked) x 130%
- 262.6 days - Total equivalent number of days

Note: for workers 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 ten regular holidays.

For workers whose rest days does not fall on Sundays, the number of rest days is 52 days, as there are 52 weeks in a year.

Section 8. Creditable Wage Increase

- a. Wage increase granted in an organized establishment within three (3) months prior to the effectivity of this Order shall be credited as compliance with the prescribed increase set forth herein, provided that an agreement to this effect has been forged between the parties or a provision in the Collective Bargaining Agreement (CBA).
- b. In the case of unorganized establishment by the employer within six (6) months prior to the effectivity of this Order shall be credited as compliance.

In the event that increases given under (a) and (b) are less than the prescribed adjustment, the employer shall pay the difference. Such increase shall not include anniversary increase, merit increase and those resulting from the regularization or promotion of employees.

Section 9. Application to Contractor:

In the case of contracts for construction projects and for security, janitorial services, the prescribed wage increases shall be borne by the principals or clients of the constructions / service contractors and the contract shall be deemed accordingly. In the event, however, that the principal or client fail to pay the prescribed wage rates, the construction / service contractor shall be jointly and severally liable with his principal or client.

Section 10. Mobile and Branch Workers:

The statutory 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.

Section 11. Transfer of Personnel:

The transfer of personnel to areas outside the Region shall not be valid ground for the reduction of the wage rates being enjoyed by the workers prior to such transfe. The workers transferred to the other Regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

Section 12. Appeal to the Commission:

Any party aggrieved by the Wage Order may file an appeal with the Commission within ten (10) calendar days from the publication of the Order. The Commission shall decide the appeal within sixty (60) calendar days from the date of filing. The appeal shall be accompanied by a memorandum of appeal which shall state the grounds relied upon and the arguments in support of the appeal.

Section 13. Effect of Appeal:

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

RULE III – Exemptions

Section 1. Exemptions:

Under this Order, establishment in any category shall not be allowed to apply for exemption from compliance with the wage order.

RULE IV - SPECIAL PROVISION

Section 1. Effect on Existing Wage Structure:

Should any dispute arise as a result of wage distortion, the employer and the union shall negotiate to correct the distortions through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrator or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

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

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

Section 2. Complaints for Non-Compliance:

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

Section 3. Conduct of Inspection by the Department:

The Department shall conduct inspection of establishments, as often 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 establishment, a worker representing the workers in the said company will accompany the inspector.

The workers' representative shall have the right to submit his own findings to the Department and to testify on the same if he does not occur with the findings of the labor inspector.

Section 4. Non-diminution of Benefits:

Nothing in the Order and in this Rules shall be construed to reduce any existing wage rates, allowances and benefits of any form under existing laws, decrees, issuances, executive orders, and /or under any contract or agreement between the workers and the employers.

Section 5. Penal Provision:

Pursuant to the provisions of Section 12 of RA 6727, as amended by RA 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 (P100,000.00) or imprisonment of not less than (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 payment of indemnity shall not absolve the employer from the criminal liability imposable under this Order.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including but not limited to the president, vice-president, chief executive officer, general manager, managing director or partner.

Section 6. Prohibition Against Injunction:

No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or Boards.

Section 7. Freedom of Bargain:

The Order shall not be construed to prevent workers in particular firms or enterprises of industries form bargaining for higher wages and flexible working arrangements with their respective employers.

Section 8. Reporting Requirements:

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

(Refer to Annex "A" for the prescribed form)

Section 9. Repealing Clause:

All laws, orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provisions of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

Section 10. Separability Clause:

If any provision or part of the Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Order and this Rules or the application of such provision of part thereof to the other persons or circumstances shall not be affected thereby.

Section 11. Effectivity of Rules:

This Order shall take effect fifteen (15) days after publication in at least one (1) newspaper of general circulation in the region.

Approved: October 10, 2000, Cotabato City, Philippines.

Approved: October 10, 2000, Cotabato City, Philippines.

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