

Republic of the Philippines
Department of Labor and Employment
National Wages and Productivity Commission
REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARD
Cotabato City

WAGE ORDER NO. ARMM-09
PROVIDING FOR NEW MINIMUM WAGE RATE AND COLA IN ARMM

WHEREAS, the Regional Tripartite Wages and Productivity Board- Autonomous Region in Muslim Mindanao (RTWPB-ARMM) is mandated to determine and fix minimum wage rates applicable in the region;

WHEREAS, the Matling Labor Union and MAGELCO filed petitions praying for a P 10.00 and P 20.00 per day wage increase, respectively;

WHEREAS, after giving due notices to all concerned sectors, the Board conducted Public Hearing on July 06, 2006 to determine the propriety of issuing a new wage order;

WHEREAS, the Board, has determined the need to give relief to the workers without impairing the viability of the business establishments;

WHEREAS, consistent with the government's policy of achieving higher levels of productivity to promote economic growth and generate employment, 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;

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

Section 1. New Minimum Wage Rate. Upon the effectivity of this Wage Order:

- a. The P10.00 per day COLA under W.O. No. ARMM-08 shall be integrated into the basic wage;
- b. A P10.00 per day increase in the daily wage and another P10.00 per day COLA or its equivalent non-wage benefits shall be granted to all minimum wage workers in the private sector in the region;
- c. The new minimum wage rate shall be:

Section 2. Non-Wage Benefits. Establishments may extend an equivalent non-wage benefits, in lieu of the Cost of Living Allowance (COLA), to all minimum wage workers such as group life insurance, hospitalization, rice allowance, scholarship, hajj or pilgrim, and the like.

Section 3. Coverage. The basic wage increase and COLA in this Wage Order apply only to minimum wage earners in the region, except domestic helpers, family drivers, and those employed in the personal service of another, and workers in registered Barangay Micro Business Enterprises with certificates of authority pursuant to R. A. 9178.

Section 4. Productivity Based Wages. In order to sustain rising levels of wages and enhance competitiveness, businesses are encouraged strongly 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 5. 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 6. 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 work a day.

Section 7. Wages of Special Groups of Workers. Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable minimum wage rates prescribed in the region.

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 8. 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 2006-2007 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 2007-2008.

Private educational institutions which have not increased their tuition fees for the School Year 2006-2007, may defer compliance with the provisions of this Order until the beginning of School Year 2007-2008.

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

Section 9. Application of Contractors. In the case of contracts for construction projects and for security, janitorial and similar services, the prescribed increase in the wage rates of the workers shall be borne by the principals or clients of the construction/service contractors and the contract shall be deemed amended.

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

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

Section 11. Effect 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 increase to employees affected by the Order, in the event such Order is affirmed.

Section 12. Exemptions. Upon application with and as determined by the Regional Board, the following establishments may be exempted from the wage increase provided in this Order for not more than one (1) year subject to applicable guidelines issued by the Commission:

- a. Establishments adversely affected by natural calamities;
- b. Distressed establishments; and

c. New business enterprises.

All applications with complete supporting documents as specified in the Rules for exemption from compliance with this Order shall be filed within seventy-five (75) days from the date of publication of the Rules Implementing this Order. Failure to submit the required supporting documents within the prescribed period will be tantamount to dismissal of the application for exemption.

Section 13. Creditable Wage Increase. Wage increases 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) allowing creditability exists. In the absence of such an agreement or provision in the CBA, any increase granted by the employer shall not be credited as compliance with the increase prescribed in this Order.

In the case of the unorganized establishment, wage increase granted by the employer within three (3) months prior to the effectivity of this Order shall be credited as compliance.

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

Section 14. Complaints for Non-Compliance. Complaints for non-compliance with this Order shall be filed with the Department of Labor and Employment (DOLE) and shall be the subject of enforcement proceedings under Article 128 of the Labor Code as amended, without prejudice to criminal prosecution, which may be undertaken against those who fail to comply.

Section 15. 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, issuances, executive orders and/or under any contract or agreement between the workers and employers.

Section 16. Penal Provision. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the wage increase prescribed in this Order, shall be subject to the penal provisions under R. A. 6727, as amended by R. A. 8188.

Section 17. 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 18. 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 19. 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, 2007 and every year thereafter in accordance with the form prescribed by the Commission.

Section 20. Repealing Clause. All orders, issuances, rules and regulations, or parts thereof inconsistent with the provision of this Wage Order are hereby repealed, amended, or modified accordingly.

Section 21. 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 22. Implementing Rules. The Board shall prepare the necessary rules to implement this Order subject to approval of the Regional Governor of ARMM.

Section 23. Effectivity. This Order shall take effect fifteen (15) days after publication in at least one (1) newspaper of general circulation in the region.

Approved this 14th day of July 2006 in Cotabato City, Philippines.

(SGD.) HON. ALE B. TUBA
Member
Workers' Representative

(SGD.) HON. JOSE MARIO S. GANA
Member
Employers' Representative

(SGD.) HON. RACID I. SALI
Member
Workers' Representative

(SGD.) HON. LUIS C. GO, Jr.
Member
Employers' Representative

**(SGD.) HON. DIAMADEL E.
DUMAGAY**
RPDO Executive Director
Vice-Chairman

(SGD.) HON. ISHAK V. MASTURA
DTI Regional Secretary
Vice-Chairman

(SGD.) HON. MUSLIMIN A. JAKILAN
DOLE Regional Secretary
Chairman

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

RULES IMPLEMENTING WAGE ORDER No. ARMM – 09

RULE 1 - General Provisions

Pursuant to Section 5, Rule IV of the NWPC Revised Rules of Procedure on Minimum Wage Fixing and Section 22 of Wage Order No. ARMM - 09, 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-09”.

Section 2. Definition of Terms.

- a. “Order” means Wage Order No. ARMM – 09;
- 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 del Sur, Sulu, Tawi – Tawi, Basilan, and City of Marawi;
- 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 employs at least twenty (20) workers. Any other agricultural enterprise shall be considered as non- plantation agricultural enterprise;
- i. “Establishment” refers to an economic unit, e.g. retail, service, cottage/handicraft, which engages in one or predominantly one kind of economic activity at a single fixed location;

- j. "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.
- k. "COLA" or Cost of Living Allowance granted under the Order by an employer to a worker for services rendered to help the latter cope with the rising cost of living and is not considered part of the basic wage;
- l. "Non-Wage Benefits" refer to non-cash benefits granted to workers such as group life insurance, hospitalization, scholarship, rice allowance, hajj pilgrim, and the like;m.
- m. "Minimum Wage Rate" refers to the lowest wage rate that an employer can pay his workers, as fixed by the Board;
- n. " Wage Distortion" means a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.
- 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 - New Wage Rates

Section 1. Integration of the COLA.

Effective 04 August 2006, the P10.00 COLA granted under Wage Order No. ARMM-08 shall be integrated into the basic minimum wage.

Section 2. Amount of Increase and COLA.

Effective 04 August 2006, a P 10.00 per day increase in the daily wage and a P10.00 per day COLA or its equivalent non-wage benefits shall be granted to all minimum wage workers in the private sector in the region.

Section 3. New Minimum Wage Rates.

Effective 04 August 2006, the new daily minimum wage rates in ARMM shall be as follows:

	Minimum Wage Under W.O. ARMM-08	Amount of Increase Under W.O. ARMM-09		New Minimum Wage
		Basic wage	COLA/Non-Wage Benefits	
All Sectors/Industry	P 180.00	P 10.00	P 10.00	P 200.00

Section 4. Non-Wage Benefits.

The COLA may be given in cash or in its equivalent fair and reasonable non-cash benefits such as group life insurance, hospitalization, scholarship, hajj or pilgrim, rice allowance, and the like.

Section 5. Coverage.

The daily minimum wage rates prescribed in the Wage Order shall apply to minimum wage workers in the region, regardless of their positions, designation or status, and irrespective of the method by which their wages are paid, except household or domestic helpers, workers employed in the personal service of another, including family drivers, and workers in registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority pursuant to R.A 9178.

Section 6. Basis of Minimum Wage.

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

Section 7. 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 prevailing 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, s amended and its implementing regulations.

Section 8. Wage 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 apprenticeship and learnership agreement entered into before the effectivity of the Order shall be considered as automatically modified in so far as their wage clauses are concerned to reflect the adjustments prescribed under the Order.

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 tuitions fees for School Year 2006-2007 shall be considered as compliance with the increase set forth in Wage Order No.ARMM-09, provided that if such increase is less than the prescribed adjustment, the employer shall pay the difference in the School Year 2007-2008.

Private educational institutions, which have not increased their tuition fees for the School Year 2006-2007, may defer compliance with the provisions of Wage Order No. ARMM-09 until the beginning of School Year 2007-2008.

In any case, all private educational institutions shall implement the wage rates and COLA prescribed herein starting School Year 2007-2008.

Section 10. 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 rate:

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

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

12

Where 396.80days:

296 days - Ordinary working days

20 days - 10 regular holidays x 200%

2.6 days - 1 regular holidays (falling on last days of August x 200%+(30% of 200%)

8 days - 4 Muslim Legal Holidays x200%

66.30 days - 51 rest days x130%

3.90 days - 3 special days x 130%

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 and Muslim Legal Holidays:

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

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:

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

12

Where 314 days:

296 days - Ordinary working days

11 days - Regular Holidays

4 days - Muslim Legal Holidays

3 days - Special days (if considered paid; if actually worked, this is equivalent to 3.90days)

314 days - Total equivalent number days

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

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

12

Where 262 days:

244 days – Ordinary working days

11 days – Regular Holidays

4 days – Muslim Legal Holiday

3 days – 3 special holidays (if considered paid; if actually worked, this is equivalent to 3.9 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 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.

The following are the eleven (11) regular holidays which are observed nationwide:

New Year's Day	January 1
Maundy Thursday	Movable Date
Good Friday	Movable Date
Araw ng Kagitingan	April 9
Labor Day	May 1
Independence Day	June 12
National Heroes Day	Last Sunday of August
Bonifacio Day	November 30
Christmas	December 25
Rizal Day	December 30
"Id-UL-Fitr" (Hari Raya Puasa)	Movable Date

National Special Days:

Freedom Day	February 21
All Saints Day	November 1
Last Day of the year	December 31

Muslim Holidays by virtue of PD 1083 – Title I, Book V:

Amun Jadid (New year)	Falls on the 1st day of the lunar month of Muharram
Maulid-un-Nabi (Birthday of the Prophet Muhammad)	Falls on the 12th day of the 3rd lunar month of Rabi-ul- Awwal
Lailatul Isra Wal Mi Raj (Nocturnal Journey and Ascension of the Prophet Muhammad)	Falls on the 27th day of the 7th lunar month of Rajab
Id-ul-Adha (Hari Raha Haji)	Falls on the 10th day of the 12th lunar month of Dhu”l- Hijja

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 that an agreement to this effect has been forged between the parties or provided in the Collective Bargaining Agreement (CBA);
- b. In the case of unorganized establishment, wage increase granted by the employer within three (3) months prior to the effectivity of this Order shall be credited as compliance;

Such creditable increases shall not include anniversary wage increases, merit increases and those resulting from the regularization or promotion of employee, unless there is an agreement expressly allowing such crediting.

Section 12. Productivity Based Wages.

In order to sustain rising levels of wages and enhance competitiveness, business 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 13. Application to Contractor.

In the case of contracts for construction projects and for security, janitorial services, the prescribed wage rates shall be borne by the principals or clients of the constructions / service contractors 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 construction / service contractor shall be jointly and severally liable with his principal or client.

Section 14. 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 of workers working in branches or agencies of establishments in or outside the region shall be those applicable in the place where they are stationed.

Section 15. 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 transfer. The workers transferred to the other Regions with higher wage rates shall be entitled to the minimum wage rate applicable therein.

Section 16. 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 17. 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.

Upon application with, and as determined by the Board, in accordance with the applicable rules and regulations issued by the Commission, the following maybe exempted from the applicability of the Order:

- a.) Distressed establishments;
- b.) New Business Enterprises (NBEs);
- c.) Establishments adversely affected by natural calamities.

All applications for exemption from compliance with this Wage Order shall be filed within seventy five (75) days from the date of publication of the Rules Implementing the Wage Order. An application in three (3) typewritten copies may be filed by the owner/ manager or duly authorized representative of an establishment in person or by registered mail. The date of mailing shall be deemed as the date of filing. The application shall be under oath and accompanied by complete supporting documents as specified in this Rules.

In the case of new business enterprises (NBEs), application shall be filed not later than sixty (60) days from date of registration.

Failure to submit the required documents within the prescribed period will be tantamount to dismissal of the application for exemption.

Section 2. Duration and Extent of Exemption.

A full exemption of one (1) year shall be granted to all categories of establishments that meet the applicable criteria for exemption under Section 3 of NWPC Guidelines No. 01, Series of 1996. However, a partial exemption of 50% with respect to the amount or period of exemption shall be granted only in the case of distressed establishments.

Section 3. Effect of Filing on the Application for Exemption.

Whenever an application for exemption has been filed with the Board, the Regional Office of the Department of Labor shall be duly notified. Pending resolution of the said

application, action on any complaint for alleged non-compliance with the Order shall be deferred by the Regional Office of the Department.

Section 4. Effect of Disapproved Application for Exemption.

In the event that the application for exemption is not approved, covered workers shall be paid the prescribed wage increase as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

RULE IV - SPECIAL PROVISIONS

Section 1. Effect on Existing Wage Structure.

Where the application of the prescribed minimum wage rate results in distortions in the wage structure within an establishment, which gives rise to dispute therein, such dispute shall first be settled voluntarily between the parties.

In these cases where there are collective bargaining agreements or recognized labor unions, the employer and the union shall negotiate to correct the distortions through the grievance procedure under their collective bargaining agreement, and if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, the voluntary arbitrator or panel of voluntary arbitrators shall decide the dispute 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 arising from wage distortion shall not in any way delay the applicability of any increase prescribed wage rates pursuant to the provisions of the Wage Order.

Section 2. Complaints for Non-Compliance.

Complaints for non-compliance with the Order shall be filed with the Regional 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, without prejudice to criminal prosecution, which may be undertaken against those who fail to comply.

Section 3. Conduct of Inspection by the Department.

The Department shall conduct inspection 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 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 Rule 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 Pesos (P100,000.00) and 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 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 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, 2007 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 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 Rule or the application of such provision or part thereof to the other persons or circumstances shall not be affected thereby.

Section 11. Effectivity of Rules.

This Rules shall take effect on 04 August 2006.

APPROVED this 8th day of August 2006:

(SGD) HON. JOSE MARIO S. GANA
Member, Employers' Representative

(SGD) HON. ALE B, TUBA
Member, Workers' Representative

(SGD) HON. LUIS C. GO, JR.
Member, Employers' Representative

(SGD) HON. RACID A. SALI
Member, Workers' Representative

(SGD) HON. DIAMADEL E. DUMAGAY
Vice-Chairperson, RPDO

(SGD) HON. ISHAK V. MASTURA
Vice-Chairperson, DTI

(SGD) HON. MUSLIMIN "JANN" A. JAKILAN
Chairperson

APPROVED this 12th day of October 2006:

(SGD) HON. DATU ZALDY "PUTI" U. AMPATUAN
Regional Governor
ARMM