

- b. The new daily minimum wage rates for all covered workers in the private sector in Davao Region shall be as follows:

UPON EFFECTIVITY OF THIS WAGE ORDER:

SECTOR/ INDUSTRY	MINIMUM WAGES				
	Under Wage Order No. RB XI-19	Under Wage Order No. RB XI-20 in Two (2) Tranches: First Tranche - P30.00 Second Tranche - <u>P26.00</u> Total Increase - P56.00			
		Effective August 16, 2018		Effective February 16, 2019	
		Amount of Increase	Upon Effectivity of Wage Order No. RB XI-20	Amount of Increase	Upon Effectivity of Wage Order No. RB XI-20
Non-Agriculture/ Industrial / Commercial and Retail / Service Employing More than 10 Workers	P 340.00	P 30.00	P 370.00 (340 + 30)	P 26.00	P 396.00 (370 + 26)
AGRICULTURE	P 335.00	P 30.00	P 365.00 (335 + 30)	P 26.00	P 391.00 (365 + 26)
RETAIL/SERVICE Employing not more than 10 Workers	P 325.00	P 30.00	P 355.00 (325 + 30)	P 26.00	P 381.00 (355 + 26)

SECTION 2. COVERAGE. The prescribed wage rates under this Wage Order shall apply to all workers and employees in the private sector receiving the minimum wage in Davao Region, regardless of position, designation or status of employment and irrespective of the method by which their wages are paid. This Wage Order shall not include domestic workers or kasambahay covered by Batas Kasambahay (R. A. 10361), persons employed in the personal service of another, and workers of establishments registered under the Barangay Micro Business Enterprises (BMBE) Law (R. A. 9178) and also as provided under the *Go Negosyo Act of 2013* (R. A. 10644).

SECTION 3. 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 per 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 rates 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 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 wage rates.

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M. Sanchez

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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 Differently-abled Persons.

SECTION 6. 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 2018-2019 shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall in the new minimum wage rates set forth herein shall be covered starting School Year 2019-2020.

Private educational institutions which have not increased their tuition fees for the School Year 2018-2019 may defer compliance with the increase prescribed herein until the beginning of School Year 2019-2020.

In any case, all private educational institutions shall implement the increase herein starting School Year 2019-2020.

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

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

SECTION 9. EXEMPTION. No exemption from compliance under this Wage Order shall be allowed. However, in case of a calamity, the Board may accept applications for exemption for establishments adversely affected by calamities such as natural and/or human-induced disasters subject to the NWPC Guidelines No. 02, series of 2007 as amended by NWPC Resolution No. 01, series of 2014.

SECTION 10. APPEAL TO THE COMMISSION. Any party aggrieved by this Wage Order may file a verified appeal in three (3) printed legible copies with the National Wages and Productivity Commission (NWPC) through the Regional Board within ten (10) calendar days from the publication thereof.

Mr. Santos Sr.

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SECTION 11. EFFECT 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 NWPC an undertaking with a surety or sureties satisfactory to the NWPC for payment of the prescribed increase to employees affected by this Wage Order in the event that the same is affirmed.

SECTION 12. EFFECTS ON EXISTING WAGE STRUCTURE. Where the application of the increases in the wage rates under this Wage Order results in distortion of the wage structure within an establishment, the same shall be corrected in accordance with the procedure provided for under Article 124 of the Labor Code of the Philippines, as amended.

SECTION 13. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Wage Order shall be filed with the office of the Department of Labor and Employment (DOLE) having jurisdiction over the workplace and shall be subject to the mandatory thirty (30) day conciliation and mediation process under the Single Entry Approach (SEnA). However, if settlement fails, the case becomes of enforcement proceedings under Article 128 and 129 of the Labor Code, as amended.

SECTION 14. NON-DIMINUTION OF BENEFITS. Nothing in this Wage Order shall be construed to reduce any existing wage rates, allowances and benefits in any form under existing laws, decrees, issuances, executive orders and/or under any contract or agreement between the workers and employers.

SECTION 15. PENAL PROVISION. Any person, corporation, trust or firm, partnership, association or entity which refuses or fails to pay the prescribed wage rates in accordance with this Wage Order shall be subject to the penal provisions under RA 6727, as amended by RA 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 this Wage Order or any proceedings before the Regional Board.

SECTION 17. FREEDOM TO BARGAIN. This Wage Order shall not be construed to prevent workers 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, 2019 and every year thereafter, in accordance with Section 3 of R.A. 6727 in relation to Art. 124 of the Labor Code, as amended and in the form as prescribed by the NWPC.

SECTION 19. 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 20. 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 21. IMPLEMENTING RULES. The Regional Board shall submit for approval of the Secretary of Labor and Employment upon recommendation of the NWPC, the necessary Implementing Rules and Regulations not later than ten (10) days from the publication of this Wage Order.

Dr. Andres D. ...

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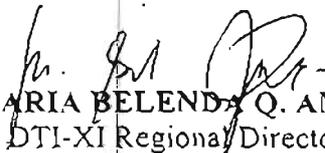
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SECTION 22. EFFECTIVITY. This Wage Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation in Davao Region.

Approved, this 27th day of June 2018, in Davao City, Philippines.

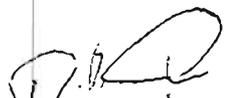

RAYMUNDO G. AGRAVANTE
DOLE-XI Regional Director
Board Chairman

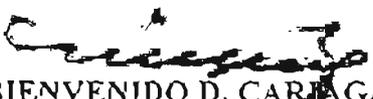

MARIA BELENDÁ Q. AMBÍ
DTI-XI Regional Director
Vice-Chairman


MARIA LOURDES D. LIM
NEDA-XI Regional Director
Vice-Chairman

Vacant
Labor Representative
Member


VIRGINIA T. CAMUS
Labor Representative
Member


RULFO V. ASÍS
Management Representative
Member


BIENVENIDO D. CARIAGA
Management Representative
Member

Annex "EE"

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Regional Tripartite Wages and Productivity Board-Region XI
Davao City

RULES IMPLEMENTING WAGE ORDER NO. RB XI-20

Pursuant to Section 6, Rule IV of the National Wages and Productivity Commission Guidelines No. 01-2007, otherwise known as the Amended Rules of Procedure on Minimum Wage Fixing and Section 21 of Wage Order No. RB XI-20, the following rules are hereby issued for the guidance and compliance by all concerned:

Rule I

DEFINITION OF TERMS

SECTION 1. DEFINITION OF TERMS. As used in this Rules:

- a. **"WAGE ORDER"** means Wage Order No. RB XI-20, promulgated by this Regional Board pursuant to its wage-fixing authority.
- b. **"DEPARTMENT"** refer to the Department of Labor and Employment, Region XI.
- c. **"NWPC"** means the **NATIONAL WAGES AND PRODUCTIVITY COMMISSION.**
- d. **"REGIONAL BOARD"** means the Regional Tripartite Wages and Productivity Board of Region XI.
- e. **"DAVAO REGION (REGION-XI)"** covers the Cities of Davao, Digos, Island Garden of Samal, Tagum, Panabo, Mati, and the Provinces of Davao del Sur, Davao del Norte, Davao Oriental, Davao Occidental and Compostela Valley.
- f. **"REGIONAL MINIMUM WAGE"** is the lowest wage rate fixed by RTWPB-XI that an employer can pay his/her workers which consists of the minimum basic wage and the cost of living allowance (COLA).
- g. **"BARANGAY MICRO BUSINESS ENTERPRISES (BMBEs)"** refers to any registered business entity or enterprise granted a Certificate of Authority pursuant to R.A. 9178 and as also provided under the Go Negosyo Act of 2013 (R.A. 10644).
- h. **"AGRICULTURE"** refers to farming in all its branches and among others, includes the cultivation and tillage of the soil, production, 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 any activity 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 farms products.

- i. **"RETAIL ESTABLISHMENT"** is one engaged in the sale of goods to end users for personal or household use.

A retail establishment that engages in wholesale activities loses its retail character.

- j. **"SERVICE ESTABLISHMENT"** is one principally engaged in the sale of services to individuals for their own or household use and is generally recognized as such.

- k. **"WAGE DISTORTION"** refers to a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.

Rule II

NEW MINIMUM WAGE RATES

SECTION 1. NEW MINIMUM WAGE RATES. Upon effectivity of this Wage Order the minimum wage rates in the Region shall be increased as follows:

- a. For workers in Non-Agriculture/Industrial/Commercial and Retail/Service Employing more than 10 workers, an increase of FIFTY-SIX PESOS (P56.00) basic wage per day.
- b. For workers in Agriculture, an increase of FIFTY-SIX PESOS (P56.00) basic wage per day.
- c. For workers in Retail/Service Employing not more than 10 workers, an increase of FIFTY-SIX PESOS (P56.00) basic wage per day.

d. The new minimum wage rates in Region XI are as follows:

SECTOR/ INDUSTRY	Under Wage Order No. RB XI-19	MINIMUM WAGES			
		Under Wage Order No. RB XI-20 in Two (2) Tranches: First Tranche - P30.00 Second Tranche - P26.00 Total Increase - P56.00			
		Effective August 16, 2018		Effective February 16, 2019	
		Amount of Increase	Upon Effectivity of Wage Order No. RB XI-20	Amount of Increase	Upon Effectivity of Wage Order No. RB XI-20
Non-Agriculture/ Industrial / Commercial and Retail / Service Employing More than 10 Workers	P 340.00	P 30.00	P 370.00	P 26.00	P 396.00
AGRICULTURE	P 335.00	P 30.00	P 365.00	P 26.00	P 391.00
RETAIL/SERVICE Employing not more than 10 Workers	P 325.00	P 30.00	P 355.00	P 26.00	P 381.00

SECTION 2. COVERAGE. The prescribed wage rates under the Wage Order shall apply to all workers and employees in the private sector receiving the minimum wage in Davao Region, regardless of position, designation or status of employment and irrespective of the method by which their wages are paid.

This Wage Order shall not include domestic workers or kasambahay covered by Batas Kasambahay (R.A. 10361), persons employed in the personal service of another, and workers of establishments registered under the Barangay Micro Business Enterprises (BMBE) Law (R.A. 9178) and as also provided under the Go Negosyo Act of 2013 (R.A. 10644).

SECTION 3. BASIS OF MINIMUM WAGE RATES. The minimum wage rates prescribed under the Wage Order shall be for the normal working hours, which shall not exceed eight (8) hours work a day.

SECTION 4. 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 **2018-2019** shall be considered as compliance with the increase prescribed herein. However, payment of any shortfall in the new minimum wage rates set forth herein shall be covered starting School Year **2019-2020**.

Private educational institutions which have not increased their tuition fees for the School Year **2018-2019** may defer compliance with the increase prescribed herein until the beginning of School Year **2019-2020**.

In any case, all private educational institutions shall implement the increase herein starting School Year 2019-2020.

SECTION 5. APPLICATION TO CONTRACTORS. In the case of contracts for construction projects, and for security, janitorial and similar services, the prescribed minimum wage rates shall be borne by the principals or clients of the construction or service contractors, and the contract shall be deemed amended accordingly. In the event, however, that the principal or client fails to pay the prescribed new minimum wage rates, the construction or service contractor shall be jointly and severally liable with his principal or client.

SECTION 6. WORKERS PAID BY RESULTS. All workers paid by results, including those paid on piecework, "takay", "pakyaw", or task basis, shall be entitled to receive the new minimum wage rates prescribed in the Wage Order per eight (8) hours work 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 (which is the applicable minimum wage rate) ÷ previous AMW x 100 = % increase;
- b. Existing rate/piece x % increase = Increase in rate/piece.
- c. Existing rate/piece + increase in rate/piece = Adjusted rate/piece.

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 7. WAGES OF SPECIAL GROUP 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 Wage Order.

All recognized learnership and apprenticeship agreements entered into before the effectivity of the 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 Differently-abled Persons.

SECTION 8. SUGGESTED FORMULA IN DETERMINING THE ESTIMATED EQUIVALENT MONTHLY REGIONAL MINIMUM WAGE RATES. Without prejudice to existing company practices, agreements or policies, the following formula may be used as guides in determining the equivalent monthly minimum wage rates:

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

$$\begin{aligned} \text{Estimated} \\ \text{Equivalent} &= \frac{\text{Applicable Daily Wage Rate (ADR)} \times 393.50 \text{ days}}{12} \\ \text{Monthly} \\ \text{Rate (EEMR)} \end{aligned}$$

where 393.50 days:

298	days	-	Ordinary working days
24	days	-	Regular Holidays
67.60	days	-	52 Rest Days x 130%
3.90	days	-	3 Special Days x 130%
<u>393.50</u>	days	-	Total equivalent number of days in a year

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

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

where 365 days:

298	days	-	Ordinary working days
52	days	-	Sunday/Rest days
12	days	-	Regular holidays
3	days	-	Special days
<u>365</u>	days	-	Total equivalent number of days in a year

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

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

where 313 days:

298	days	-	Ordinary working days
12	days	-	Regular holidays
3	days	-	Special days
<u>313</u>	days	-	Total equivalent number of days in a year

- d. For those who do not work and are not considered paid on Saturdays and Sundays or Rest Days:

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

where 261 days:

246	days	-	Ordinary Working Days
12	days	-	Regular Holidays
3	days	-	Special Days
<u>261</u>	<u>days</u>	-	Total equivalent number of days in a year

SECTION 9. 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 Davao Region shall be those applicable in the place where they are stationed.

SECTION 10. TRANSFER OF PERSONNEL. The transfer of personnel to areas outside Davao 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.

SECTION 11. PRODUCTIVITY-BASED WAGES. In order to sustain rising levels of wages and enhance competitiveness, businesses are encouraged to adopt productivity improvement schemes such as time and motion studies, good housekeeping, quality circles, labor-management cooperation as well as implement gainsharing programs similar to the productivity incentive schemes in the banana industry under Advisory No. RB XI-01. Accordingly, the Board shall provide the necessary studies and technical assistance pursuant to Republic Act No. 6971 or the Productivity Incentives Act of 1990.

Pursuant to the Two-Tiered Wage System, the Board issued Advisory No. RB XI-01 (Advisory on the Implementation of Productivity-Based Incentive Schemes for Banana Industry in Davao Region), notwithstanding the issuance of future advisories to guide workers and management in the formulation, adoption and implementation of programs and productivity-based incentive schemes.

SECTION 12. APPEAL TO THE COMMISSION. Any party aggrieved by the Wage Order may file a verified appeal with the NWPC through the Board within ten (10) calendar days from the publication of the Wage Order. The NWPC 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 FILING OF APPEAL. The filing of an appeal does not operate to stay the Wage Order unless the party appealing such Wage Order shall file with the NWPC an undertaking with a surety or sureties in such amount as may be fixed by the

NWPC for payment of the prescribed increase to employees affected by the Wage Order in the event such Wage Order is affirmed.

SECTION 14. GROUND FOR APPEAL. An appeal may be filed on the following grounds:

- a. non-conformity with prescribed guidelines and/or procedures;
- b. questions of law
- c. grave abuse of discretion

SECTION 15. TRANSMITTAL OF RECORDS. Immediately upon receipt of the appeal, the Board Secretariat shall transmit to the Commission Secretariat the appeal and a copy of the subject Wage Order together with the complete records of the case and all relevant documents.

Rule III

EXEMPTIONS

Section 1. EXEMPTION. No exemption from compliance under this Wage Order shall be allowed. However, in case of a calamity, the Board may accept applications for exemption for establishments adversely affected by calamities such as natural and/or human-induced disasters.

Section 2. CRITERIA FOR EXEMPTION. In order to determine whether an applicant establishment is qualified for exemption, the following criteria must be present:

1. The establishment must be located in an area declared by a competent authority as under a state of calamity.
2. The calamity must have occurred within 6 months prior to the effectivity of the Order. However, if based on the assessment by a competent authority, the damage to properties is at least 50% and the period of recovery will exceed one (1) year, the 6-month period may be extended to one (1) year.
3. Losses suffered by the establishment as a result of the calamity that exceed the insurance coverage should amount to 20% or more of the stockholders' equity as of the last full accounting period in the case of corporations and cooperatives, total invested capital in the case of partnerships and single proprietorships and fund balance/members' contribution in the case of non-stock non-profit organizations.

Only losses or damage to properties directly resulting from the calamity and not incurred as a result of normal business operations shall be considered.

4. Where necessary, the Board or its duly authorized representative shall conduct an ocular inspection of the establishment or engage the services of experts to validate the extent of damages suffered.

Section 3. DOCUMENTS REQUIRED. The following supporting documents shall be submitted together with the application:

1. 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.
2. Affidavit from the General Manager or Chief Executive Officer of the establishment regarding the following:
 - a. Date and type of calamity
 - b. Amount of losses/damages suffered as a direct result of the calamity
 - c. List of properties damaged/lost together with estimated valuation
 - d. For properties that are not insured, a statement that the same are not covered by insurance.
3. Copies of insurance policy contracts covering the properties damaged, if any.
4. Adjuster's report for insured properties.
5. Audited financial statements for the last full accounting period preceding the effectivity of the Order stamped received by the appropriate government agency.
6. In case of total damage to properties caused by the calamity, A Certification by the Barangay and pictures of the damaged property/ies may be submitted in lieu of the audited financial statements.

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

Section 4. EXTENT AND DURATION OF EXEMPTION. Full Exemption of one (1) year from effectivity of the Order shall be granted to establishments that meet the applicable criteria for exemption as provided in the preceding section.

Section 5. ACTION ON APPLICATION FOR EXEMPTION. Upon receipt of an application with complete documents, the Board shall take the following steps:

- a. Notify the DOLE Regional Office having jurisdiction over the workplace of the pendency of the application requesting that action on any complaint for non-compliance with the Order be deferred pending resolution of the application by the Board.
- b. Request the DOLE Regional Office to conduct ocular inspection, if necessary, of establishments applying for exemption to verify number of workers, nature of business and other relevant information.
- c. Act and decide on the application for exemption with complete documents, as much as practicable, within 45 days from the date of filing. In case of contested application, the Board may conduct conciliation or call hearings thereon.

- d. Transmit the decision of the Board to the applicant establishment, the workers or president of the union, if any, and the Commission, for their information; and the DOLE Regional Office concerned, for their implementation/enforcement.

The Board may create a Special Committee with one representative from each sector to expedite processing of applications for exemption.

Section 6. APPLICATION FOR PROJECTS/BRANCHES/DIVISIONS. Where the exemption being sought is for a particular project/branch/division not separately registered and licensed, the consolidated audited financial statements of the establishment shall be used as basis for determining its distressed condition.

Section 7. DISTRESSED PRINCIPAL. Exemption granted to a distressed principal shall not extend to its contractor in case of contract (s) for projects, security, janitorial and/or similar services with respect to the employees of the latter assigned to the former.

Section 8. EFFECT OF DISAPPROVED APPLICATION FOR EXEMPTION. In the event that the application for exemption is not approved, covered workers shall be paid the mandated wage increase/allowance as provided for under the Order retroactive to the date of effectivity of the Order plus simple interest of one percent (1%) per month.

Section 9. FILING OF 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 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 10. APPEAL TO THE COMMISSION. Any party aggrieved by the decision of the Board may file an appeal with the Commission, through the Board within ten (10) calendar days from date of receipt of the decision. 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 11. GROUNDS FOR APPEAL. An appeal may be filed on the following grounds:

- a. Non-conformity with the prescribed guidelines and/or procedures on exemption;
- b. Prima facie evidence of grave abuse of discretion on the part of the Board; or
- c. Questions of law.

Section 12. OPPOSITION. The appellee may file with the Board his reply or opposition to the appeal within ten (10) days from receipt of the appeal. Failure of the appellee to file a reply or opposition shall be construed as waiver on its part to file the same.

Section 13. TRANSMITTAL OF RECORDS. Within five (5) days upon receipt of the reply or opposition of the appellee or after the expiration of the period to file the same, the entire records of the case which shall be consecutively numbered, shall be transmitted by the Board to the Commission.

Rule IV

SPECIAL PROVISIONS

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 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, such dispute shall be decided by the voluntary arbitrator (VA) or panel of voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration as provided under R.A. 6727.

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 (NCMB) and if it remains unresolved after ten (10) calendar days of conciliation, the same be referred to the appropriate branch of the National Labor Relations Commission (NLRC) or at the option of the parties to voluntary arbitration. The voluntary arbitrator shall decide the dispute within ten (10) calendar days from the time said dispute was referred to voluntary arbitration. 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 a wage distortion shall not stay the applicability of any wage adjustment prescribed by the Wage Order.

SECTION 2. COMPLAINTS FOR NON-COMPLIANCE. Complaints for non-compliance with this Wage Order shall be filed with the office of the Department of Labor and Employment (DOLE) having jurisdiction over the workplace and shall be the subject to the mandatory thirty (30) day conciliation and mediation process under the Single Entry Approach (SEnA). However, if settlement fails, the case becomes subject of enforcement proceedings under Articles 128 and 129 of the Labor Code, as amended.

SECTION 3. NON-DIMINUTION OF BENEFITS. Nothing in the Wage 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 employers.

SECTION 4. PENAL PROVISION. Pursuant to 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 new minimum wage rates prescribed in the Wage 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) 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 Wage 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 RA 6727, as amended.

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

SECTION 5. PROHIBITION AGAINST INJUNCTION. No preliminary injunction or temporary restraining order may be issued by any court, tribunal or other entity against the Wage Order or any proceedings before the Regional Board as provided for under Article 126 of the Labor Code, as amended.

SECTION 6. FREEDOM TO BARGAIN. The Wage Order shall not be construed to prevent workers in particular firms or enterprises from bargaining for higher wages and flexible working arrangements with their respective employers.

SECTION 7. 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, 2017 and every year thereafter in accordance with Section 3 of R.A. 6727 in relation to Art. 124 of the Labor Code, as amended and in the form as prescribed by the NWPC.

SECTION 8. REPEALING CLAUSE. All orders, issuances, rules and regulations on wages, or parts thereof inconsistent with the provision of the Wage Order and this Rules are hereby repealed, amended or modified accordingly.

SECTION 9. SEPARABILITY CLAUSE. If any provision or part of the Wage Order and this Rules, or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the Wage Order and this Rules or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

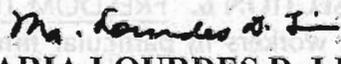


SECTION 10. EFFECTIVITY. This Rules shall take effect upon the effectivity of the Wage Order.

Done in the City of Davao, Philippines, this 16th day of July 2018.

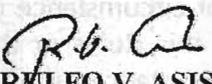

RAMUNDO G. AGRAVANTE
DOLE-XI Regional Director
Board Chairman

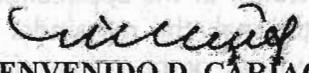

MARIA BELENDA Q. AMBI
DTI-XI Regional Director
Vice-Chairman


MARIA LOURDES D. LIM
NEDA-XI Regional Director
Vice-Chairman

Vacant
Labor Representative
Member

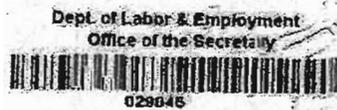

VIRGINIA T. CAMUS
Labor Representative
Member


RULFO V. ASIS
Management Representative
Member


BIENVENIDO D. CARIAGA
Management Representative
Member

APPROVED this 31st day of August 2018, in the City of Manila, Philippines.


SILVESTRE H. BELLO III
Secretary
Department of Labor and Employment



Rules Implementing Wage Order No. RB XI-20 published in SunStar Davao on September 11, 2018