

**MALACAÑANG
MANILA**

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 435

DEVOLVING TO THE AUTONOMOUS REGIONAL GOVERNMENT OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO CERTAIN POWERS AND FUNCTIONS OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, ITS SECTORAL OFFICES AND ATTACHED AGENCIES IN THE REGION, AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Sections 1 and 15, Article X of the Constitution, Republic Act No. 6734 entitled "An Act providing for an Organic Act for the Autonomous Region in Muslim Mindanao" was enacted;

WHEREAS, under Section 2, Article V of RA 6734, the Autonomous Region in Muslim Mindanao (ARMM) has jurisdiction over matters devolved to it by the Constitution and the Organic Act which include, among others, "the powers, functions and responsibilities now being exercised by the departments of the National Government";

WHEREAS, pursuant to the aforesaid section of RA 6734, the powers, functions and responsibilities exercised in the region by the Department of Transportation and Communication (DOTC), its sectoral offices and attached agencies are now devolved to the ARMM except "maritime, land and air transportation and communication that affect areas outside the Autonomous Region";

WHEREAS, Section 16, Article X of the Constitution provides that "all powers, functions and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government";

IN REPLYING, PLEASE CITE

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NOW, THEREFORE, I, FIDEL V. RAMOS, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

Section 1. Declaration of Policy. In line with the policy of the State under the Constitution to ensure the autonomy of local governments, it is hereby declared the policy of the National Government that powers, functions and responsibilities of departments of the National Government, its sectoral offices and attached agencies devolved by virtue of the Constitution and RA 6734 be fully and expeditiously transferred to, and assumed and exercised by, the Autonomous Regional Government (ARG) of the ARMM.

Section 2. Transfer of Offices, Assets and Liabilities. All offices of the DOTC, its sectoral offices and attached agencies now existing in the ARMM, including their personnel, equipment, properties, budgets, assets and liabilities are hereby transferred to and placed under the control and supervision of the ARG subject to Article XIX of RA 6734.

Section 3. Control and Supervision of Transferred Offices of DOTC and its Attached Agencies. Offices of the DOTC, its sectoral offices and attached agencies in the ARMM transferred to and placed under the control and supervision of the ARG shall cease to be part of the DOTC or its attached agencies and shall no longer be under the control and supervision of the DOTC Secretary or the governing boards of the attached agencies, as the case may be. These transferred offices shall become either regional executive commissions, boards, bureaus or offices as the ARG may, in its discretion and under its authority, structure them. Pursuant to Section 18, Article VIII of RA 6734, the Regional Governor of the ARMM, subject to the exceptions provided under the Organic Act, shall have control over regional executive commissions, boards, bureaus or offices, and shall ensure that the laws are faithfully executed.

Section 4. Devolution of the Powers and Functions of DOTC. The powers and functions of the DOTC under Executive Order No. 125 as amended and Executive Order No. 292 (Administrative Code of 1987), insofar as the exercise thereof is confined to the ARMM and does not affect areas outside the autonomous region, are hereby devolved to the

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ARMM subject to national transportation and communication policies and programs.

Section 5. Devolution of Specific Powers, Functions and Responsibilities of Sectoral Offices and Attached Agencies of DOTC. Insofar as the exercise thereof by the ARG is confined to the ARMM and does not affect areas outside the autonomous region, and subject to national transportation and communication policies and programs, the following specific powers, functions and responsibilities of the sectoral offices of the DOTC are hereby devolved to the ARG:

A. LAND TRANSPORTATION OFFICE (LTO)

1. To issue licenses to operate motor vehicles within the ARMM to persons who upon written and practical examinations have shown proficiency in the operation of motor vehicles, pursuant to the provisions of RA 4136 and relevant laws; provided that driver's licenses issued by the ARG may be honored outside the ARMM subject to recording and validation procedures of the Land Transportation Office;
2. To register motorcycles and motorized tricycles and to charge registration fees therefor in accordance with existing laws;
3. To enforce all transportation and traffic laws, rules and regulations within the ARMM, confiscate licenses, impound vehicles if warranted by law or regulation, and impose fines and penalties to violators, including suspension and revocation of licenses and registration, subject to observance of due process of law;
4. To issue rules and regulations consistent with existing transportation and other relevant laws to govern traffic and transportation in the ARMM.

B. LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD (LTFRB)

1. To prescribe and regulate routes, economically viable capacities, and zones or areas of operation of public land transportation services provided by motorized vehicles within the ARMM, consistent with the national public land
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transportation development policies and plans; provided that the ARG and the LTFRB/DOTC shall coordinate with regard to the establishment and regulation of inter-regional routes, zones or areas of operation that pass through, include or involve the territory of the ARMM;

2. To issue, amend, or revise Certificates of Public Convenience (CPC) or permits authorizing the operation of public land transportation services provided by motorized vehicles exclusively within the ARMM, prescribe the appropriate terms and conditions therefor, and for cause, suspend, cancel or revoke the same; provided that jurisdiction over public utility vehicles with inter-regional CPC's or permits, that ply routes within the ARMM shall remain exclusively with the LTFRB;

3. To determine, prescribe, approve and periodically review and adjust reasonable fares, rates and other related charges, relative to the operation of public land transportation services provided by motorized vehicles exclusively within the ARMM;

4. To issue preliminary or permanent injunction, whether prohibitory or mandatory, in all cases within its jurisdiction in which cases the pertinent provisions of the Rules of Court shall apply;

5. To punish for contempt; both direct and indirect in accordance with the pertinent provisions of, and the penalties prescribed by, the Rules of Court;

6. To issue subpoenas and subpoena duces tecum and summon witnesses to appear in any proceedings of the appropriate office in the ARG, to administer oaths and affirmations, and in appropriate cases, to order the search and seizure of all vehicles and documents, upon probable cause and as may be necessary for the proper disposition of the cause before it;

7. To conduct investigations and hearings of complaints for violation of the public service laws on land transportation and of the rules and regulations, orders, decisions or rulings and to impose fines or penalties for such violations; provided that if the violators possess inter-regional CPC's or permits, the appropriate office of the ARG in charge of enforcement of public service laws on

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land transportation shall file and prosecute the appropriate cases with the LTFRB;

8. To review motu proprio the decisions/actions of the Provincial Franchising and Regulatory Offices within the ARMM;

9. To promulgate rules and regulations governing proceedings before the appropriate office in the ARG and the Provincial Franchising and Regulatory Office. However, except with respect to paragraphs 4, 5, 6 and 7 hereof, the rules of procedure and evidence prevailing in the courts of law should not be controlling but rather the spirit and intention of said rules. The appropriate office in the ARG and the Provincial Franchising and Regulatory Offices shall use every and all reasonable means to ascertain facts in each case speedily and objectively and without regard to technicalities of law and procedures, all in the interest of due process;

10. To fix, impose and collect, and periodically review and adjust, reasonable fees and other related charges for services rendered within the ARMM;

11. To formulate, promulgate, administer, implement and enforce rules and regulations on land transportation public utilities, standards of measurements or design, and rules and regulations requiring operators of any public land transportation service to equip, install and provide in their utilities and in their stations such devices, equipment, facilities and operating procedures and techniques as may promote safety, protection, comfort and convenience to persons and property in their charges as well as the safety of persons and property within their areas of operation; provided, that the same shall apply only within the ARMM and on public transport vehicles under its jurisdiction; and provided further, that the rules and regulations are consistent with existing laws and national policies, and the designs and standards are not below nationally prescribed levels;

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12. To coordinate and cooperate with other government agencies and entities concerned with any aspect involving public land transportation services with the end view of effecting continuing improvement of such services; and

13. To perform such other functions and duties as may be provided by law, or as may be necessary, or proper or incidental to the purposes and objectives of the ARG.

C. AIR TRANSPORTATION OFFICE (ATO)

1. To manage, supervise and control government airports within the ARMM, except the airside at such airports, where aircraft are controlled and navigational aids and facilities are located, which shall remain under the control and supervision of the National Government, through the DOTC/ATO;

2. Upon close consultation with the ATO, promulgate rules and regulations to promote safety and security in civil aviation in the ARMM, which shall be consistent with law and international regulations and standards;

3. To fix and impose reasonable charges and fees on the use of its airports and related facilities under its control and supervision;

4. To recommend to the ATO the designation and establishment of airways within its jurisdiction and to participate in studies pertaining to the development civil aviation;

5. To extend technical assistance to private airport operations entities within its territorial jurisdiction;

6. To maintain and operate aircraft necessary to carry out the objectives and activities of the ARG;

7. To design, install, manage, operate, maintain and repair the airports in the ARMM in accordance with national standards set by the ATO;

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8. To enforce the rules and regulations issued pursuant to R.A. 776 and other air transportation laws within its jurisdiction and in coordination with the ATO, conduct investigation, and upon observance of due process, impose penalties for the violations thereof; provided that, on appeal, the President shall cause the ATO to review the findings and conclusions of the ARG and to make recommendations relative thereto; and

9. To perform such other functions related to civil aviation as may be provided by law.

D. MARITIME INDUSTRY AUTHORITY (MARINA)

1. To issue Certificate of Public Convenience (CPC), Provisional Authority (PA) and Special Permit (SP) for both contested and uncontested applications, provided that the vessels are homeported and are operating exclusively within the ARMM territorial boundaries; and provided further, that the issuance of CPC/PA/SP of vessels homeported in the ARMM operating inter-regionally shall be forwarded to this Authority;

2. To issue SP's for the temporary utilization of domestic vessels in the Brunei-Darussalam, Indonesia, Malaysia and Philippines-East ASEAN Growth Area (BIMP-EAGA) routes;

3. To accredit banca operators whose principal office is located within the ARMM jurisdiction;

4. To register vessels of all tonnages homeported within its territorial boundary and to issue the corresponding document appurtenant thereto;

5. To conduct safety inspection of vessels homeported and operating within the ARMM jurisdiction so as to determine the Safety of Life at Sea (SOLAS) compliance and manning requirements;

6. To issue Coastwise License/Bay and River License/Pleasure Yacht License on all domestic vessels homeported within the ARMM regional boundaries;

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7. To issue Motorboat Operator's License for operators of vessels weighing three (3) Gross Registered Tonnages (GRT) and below which are homeported and are operating exclusively within the ARMM jurisdiction;

8. To issue licenses to shipyards within the ARMM subject to existing guidelines;

9. To issue Domestic Seafarer's Identification and Record Book (SIRB) subject to existing MARINA rules and regulations; and

10. To collect fees not exceeding those charged under existing MARINA circulars and issue receipts therefor in the exercise of the devolved functions.

E. PHILIPPINE PORTS AUTHORITY (PPA)

1. To formulate, in coordination with the Regional Development Office, a comprehensive and practicable port development plan for the autonomous region and to program its implementation, and review and update the same regularly in coordination with other regional agencies;

2. To supervise, control, regulate, construct, maintain, operate and provide such facilities or services as are necessary in all ports within the ARMM;

3. To prescribe rules and regulations, procedures; and guidelines governing the establishment, construction, maintenance, and operation of additional ports, including private ports in the ARMM;

4. To license, control, regulate, supervise any construction or structure within any port in the ARMM;

5. To provide services (whether on its own, by contract or otherwise) within the region and the approaches thereof including but not limited to:

5.1 berthing, towing, mooring, moving, slipping or docking any vessel;

5.3 loading or discharging any vessel; and

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5.2 sorting, weighing, measuring, or otherwise, handling goods.

6. To exercise control or administer any foreshore rights or leases within its jurisdiction;

7. To coordinate with the Regional Bureau of Lands or any other regional government agency of corporation, in the development of any foreshore area;

8. To control, regulate, and supervise pilotage and the conduct of pilots in any port in the ARMM;

9. To provide or assist in the provision of training programs and training facilities for its staff, or staff of port operators and users for the efficient discharge of its functions, duties, and responsibilities;

10. To exercise the corporate powers and the police authority now vested in the Regional Ports Authority; provided that the exercise of police authority shall not extend to areas outside the autonomous region;

11. To perform such acts or provide such services as may be deemed proper and necessary to carry out and implement the provisions of this Executive Order.

F. NATIONAL TELECOMMUNICATIONS COMMISSION (NTC)

1. To issue Certificates of Public Convenience for the operation of communication utilities and services, radio communications systems,

wire or wireless telephone or telegraph systems, radio and television broadcasting system and other similar public utilities within the ARMM;

2. To establish, prescribe and regulate areas of operation of particular operators of public service communications within the ARMM; and determine and prescribe charges or rates pertinent to the operation of such public utility facilities and services except in cases where charges or rates are established by international bodies or associations of which the Philippines is a participating

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member or by bodies recognized by the Philippine Government as the proper arbiter of such charges or rates;

3. To grant permit for the use of radio frequencies for wireless telephone and telegraph systems and radio communication systems including amateur radio stations and radio and television broadcasting systems within the region;

4. To establish and prescribe rules, regulations, standards and specifications in all cases related to the issued Certificates of Public Convenience and administer and enforce the same within its territorial jurisdiction;

5. To coordinate and cooperate with government agencies and other entities concerned with any aspect involving communications service in the ARMM;

6. To promulgate such rules and regulations applicable within its jurisdiction, as public safety and interest may require, to encourage a larger and more effective use of communications, radio and television broadcasting facilities and to maintain effective competition among private entities in these activities whenever the appropriate office in the ARG finds it reasonably feasible;

7. To supervise and inspect the operation of radio stations and telecommunications facilities in the region;

8. To undertake the examination and licensing of radio operators in the region;

9. To undertake, whenever necessary, the registration of radio transmitters and transceivers operated and used within its territorial jurisdiction;

10. To perform such other functions as may be prescribed by law

G. CIVIL AERONAUTICS BOARD

1. To monitor and enforce, in coordination with the CAB, compliance with laws, rules and regulations governing those engaged in air transportation and air commerce in the ARMM;

2. To regulate the activities of air carriers, airfreight forwarders, general sales agents and cargo sales agents operating within the ARMM consistent with existing laws.


Section 6. Transition Period. During such period, not to exceed one (1) year from the effectivity hereof, that the ARG is structuring, organizing, staffing, equipping, and otherwise preparing the appropriate ARG offices for the full discharge of their powers, functions and responsibilities as devolved, the DOTC, its sectoral offices and attached agencies are hereby directed to extend their assistance and support to ensure that the services needed by the public are not disrupted.

Section 7. Standard Setting. The ARG, in the exercise of the powers devolved in this Executive Order, may formulate its own standards; provided, that in the formulation of regional standards, it shall adhere to the national standards and pertinent national laws as a minimum requirement.

Section 8. Programs and Projects. Locally-funded projects of DOTC, its sectoral offices and attached agencies within the ARMM including the corresponding project staff, budgets and assets thereof, are hereby transferred to the ARG. Control and supervision of foreign funded or assisted projects covered by existing contracts, that are to be implemented within the ARMM, shall be the subject of a Memorandum of Agreement between the ARG and the DOTC or the agency concerned, as the case may be.

Section 9. Assets, Equipment, Offices and Land. All existing assets and equipment being utilized or programmed for use in the four (4) provinces of the ARMM are hereby turned over to the ARG. The offices and land where the edifices are built or equipment is located or installed within the ARMM are likewise hereby transferred to the ARG.

Section 10. Personnel Matters. Plantilla positions, whether filled or unfilled, of the regional field offices of the DOTC and its sectoral offices and attached agencies in the four (4) ARMM provinces, are hereby placed under the supervision and control of the ARG. Personal services budgets are henceforth also transferred.



All offices and employees in the career executive/career service in the offices to be absorbed by the ARG shall be considered regular and

permanent officials and employees of the ARG and shall retain their seniority rights, compensation, and other benefits. They shall enjoy security of tenure and shall not be removed except for valid cause, after due notice and hearing in accordance with Civil Service laws, rules and regulations.

Personnel who refuse to be absorbed by the ARG shall have the following options

- a. Regular retirement;
- b) Transfer to an office of the DOTC, its sectoral office or its attached agencies in another region if position is available and management so approves the same; and
- c) Transfer to another office based on the availability of positions

Nothing herein shall be interpreted or construed as depriving any affected personnel of any rights and benefits under the Civil Service and other laws.

Section 11. Proportionate Allocation of Personnel, Budgets and Other Resources. DOTC offices or its attached agencies which do not have offices within the ARMM but have regional offices in Region 9 and 12, which serve the four (4) ARMM provinces, shall immediately transfer to the ARG a proportionate share of their positions/personnel, equipment, budgets, assets and other resources.

Section 12. Special Assistance. The DOTC, its sectoral offices or attached agencies has no or few resources to transfer to the autonomous region, special assistance in the form of additional budgetary support or technical assistance in kind shall be extended to the ARG.

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Section 13. Technical Assistance. The DOTC, its sectoral offices and attached agencies shall extend technical assistance and other related services to the ARG in improving the administrative, fiscal and technical skills of its personnel.

Section 14. Submission of Quarterly Report.

A quarterly report on the status of the implementation of this Executive Order shall be submitted to the President by the ARG.

Section 15. Implementing Rules.

The in consultation with the ARG, shall issue the implementing rules and regulations of this Executive Order within (60) days from its effectivity.

Section 16. Separability Clause.

If any provision of this Executive Order is declared unconstitutional or contrary to law, the validity and effectivity of the other provisions hereof shall not be affected.

Section 17. Effectivity.

This Executive Order shall take effect fifteen (15) days after its publication in a national newspaper of general circulation and a newspaper of general circulation in the ARMM.

Done in the City of Manila, this 28th August in the year of our Lord Nineteen Hundred Ninety Seven.



By the President:


RUBEN D. TORRES
Executive Secretary

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