

**22 GCA BUSINESS REGULATIONS
CH. 3 FAIR LABOR STANDARDS**

Upon the enactment of this Act, the Department of Administration shall provide notification of the provisions of Section 2 of this Act and Executive Order 98-20 to all employees of each governmental entity, department, agency, commission, instrumentality, or public corporation of the government of Guam.

**ARTICLE 8
THE PREGNANT WORKERS FAIRNESS ACT**

SOURCE: Entire Article added by P.L. 36-118:2 (Nov. 9, 2022), effective one (1) year after enactment pursuant to P.L. 36-118:3 (Nov. 9, 2022).

- § 3801. Definitions.
- § 3802. Nondiscrimination with Regard to Reasonable Accommodations Related to Pregnancy or Childbirth.
- § 3803. General Enforcement.
- § 3804. Administrative Process and Penalties.
- § 3805. Civil Process.
- § 3806. Rules and Regulations.

§ 3801. Definitions.

(a) Employee means any individual employed by an employer.

(b) Employer means either of the following:

(1) any person (including any individual, association, partnership, corporation, company, entity, or organized group of persons acting directly or indirectly in the interest of an employer in relation to an employee) who directly employs fifteen (15) or more persons to perform services for a wage or salary; or

(2) the government of Guam, and any governmental entity, department, agency, commission, instrumentality, or public corporation, but excluding the United States government.

(c) Reasonable accommodations means:

(1) making existing facilities used by employees readily accessible to and usable by individuals with any type of disability; and

(2) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with any type of disability.

(d) Known limitation means a physical or mental condition arising out of pregnancy or childbirth that the employee or employee's representative has communicated through a certified document provided by a healthcare provider to the employer whether or not such condition meets the definition of disability specified in Section 3 of the Americans with Disabilities Act of 1990.

§ 3802. Nondiscrimination with Regard to Reasonable Accommodations Related to Pregnancy or Childbirth.

(a) It shall be unlawful for any employer to not make reasonable accommodations to the known limitations related to the pregnancy or childbirth of an employee, unless such employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such employer.

(b) It shall be unlawful for any employer to require an employee affected by pregnancy or childbirth to accept an accommodation other than any reasonable accommodation.

(c) It shall be unlawful for any employer to deny employment opportunities to an employee if such denial is based on the need of the employer to make reasonable accommodations to the known limitations related to the pregnancy or childbirth of a qualified employee.

(d) It shall be unlawful for any employer to require an employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy or childbirth of an employee.

(e) It shall be unlawful for any employer to take adverse action in terms, conditions, or privileges of employment against an employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy or childbirth of the employee.

§ 3803. General Enforcement.

The Fair Employment Practice Division shall have all necessary enforcement and investigative powers to enforce the provisions of this Act, and the Director of the Department of Labor shall establish due process policies and be the Hearing Officer in any appeals relative to the enforcement actions or fines initiated under this Act by the Fair Employment Practice Division.

§ 3804. Administrative Process and Penalties.

(a) A person claiming to be aggrieved by a violation of this Act may file an administrative complaint with the Guam Department of Labor (Department), in accordance with rules and regulations promulgated by the Department.

(b) Any administrative complaint made under the provisions of this Act must be made within ninety (90) days of the denial of accommodations towards the employee.

(c) The Director of Labor shall be the Hearing Officer in any appeals relative to enforcement actions initiated by the Fair Employment Practice Office.

(d) The Department may refer any unpaid penalties to the Department of Revenue and Taxation, or other appropriate licensing entities, who shall require that all penalties under this Act be paid in full before renewing a business license.

(e) Any administrative complaints made directly with the U.S. Department of Labor will automatically supersede local filing.

(f) The Guam Department of Labor is hereby authorized to issue the following fines for violations of this Act:

(1) a fine of up to One Thousand Dollars (\$1,000.00) for the first offense; and

(2) a fine not less than One Thousand Dollars (\$1,000.00) but not greater than Two Thousand Dollars (\$2,000.00) for subsequent offenses.

(g) The Department is hereby authorized to take into consideration penalties ranging from written warning, training, retraining, and subsequent fines mentioned in Subsection (f)(2) of this Section.

(h) Any penalty fines for violations of this Act shall be collected by the Department of Labor. Fines collected by the Department under the provisions of this Section shall be deposited in the Manpower Development Fund to be employed exclusively for the training programs and enforcement operations within the Fair Employment Practice Office.

22 GCA BUSINESS REGULATIONS
CH. 3 FAIR LABOR STANDARDS

(i) The Guam Department of Labor may develop a training program and/or a plan for providing training resources for employers and their representatives, such as the hiring authorities or human resource officers. The program may include a mandatory posting in each employer's premises, developed by the Department, which notifies employees of this Act and other labor laws.

§ 3805. Civil Process.

(a) Any person alleging a violation of this Act may bring a civil action in the Superior Court for such legal or equitable relief as will effectuate the purpose of this Act.

(b) In any action brought to enforce this Act, the court shall have jurisdiction to grant such legal or equitable relief as may be appropriate to effectuate the purposes of this Act, including, without limitation, judgements compelling employment, recovery of attorney fees, reinstatement or promotion, or enforcing the liability for amounts deemed to be unpaid wages.

§ 3806. Rules and Regulations.

The Guam Department of Labor shall promulgate rules and regulations in accordance with outlining the procedures by which it will accept, investigate, and adjudicate complaints of "Pregnant Workers Fairness Act" violations, and the enforcement of the provisions of this Act. All rules and regulations shall comply with the Administrative Adjudication Law, as required under Article 3 Chapter 9 of Title 5, Guam Code Annotated.
