



# FLSA

## Fair Labor Standards Act

TITLE 22, GCA Chapter 3



Information updated as of:  
**April 1, 2022**



# WAGE & HOUR DIVISION

Through Public Law 5-143, the Guam Wage and Hour Division is charged with the responsibility to administer and enforce the Fair Labor Standards Act, promulgated under Title 22, Guam Code Annotated, Chapter 3, and Child Labor Laws under Title 19, Chapter 11, Guam Code Annotated, to protect workers against unpaid hours worked whether they are alien workers, U.S. citizens, persons with disability, trainees or minors.

# TITLE 22

## CHAPTER 3

### "FAIR LABOR STANDARDS"

#### *ARTICLE 1*

#### *MINIMUM WAGE AND HOUR ACT*

§ 3101. TITLE. This Chapter may be cited as the "Minimum Wage and Hour Act of Guam."

(Added by P.L. 5-143, as GC Section 45000, effective 11/09/60; renumbered to 46000 & amended by P.L. 8-11 effective 03/05/65; 1994 codification as §3101.)

§ 3102. DECLARATION OF POLICY. It is declared to be the policy of this Chapter: (a) to establish minimum wage and maximum hour standards at levels consistent with the public health, efficiency and general well-being of workers; (b) to safeguard existing minimum wage and maximum hour standards which are adequate to the health, efficiency and general well-being of workers from the effects of the serious and unfair competition resulting from wage and hour standards detrimental to the health, efficiency and general well-being of workers; and (c) to increase employment opportunities.

(Added by P.L. 5-143, as GC Section 45001, effective 11/09/60; renumbered to 46001 & amended by P.L. 8-11 effective 03/05/65; 1994 codification as §3102.)

§ 3103. WAGE AND HOUR COMMISSIONER. This Chapter will be administered by a Wage and Hour Commissioner, who shall be the Director of Labor.

(Added by P.L. 5-143, as GC Section 45002, effective 11/09/60; renumbered to 4002 & amended by P.L. 8-11, effective 03/05/65; amended by P.L. 9-238 effective 07/01/68; 1994 codification as §3103.)

§ 3105. MINIMUM WAGES. Every employer shall pay each person employed by him wages at a rate not less than... :

Effective October 1, 1997, \$5.15 per hour.

Effective July 1, 2007, \$5.75 per hour.

Effective July 24, 2007, \$5.85 per hour.

Effective July 24, 2008, \$6.55 per hour.

Effective July 24, 2009, \$7.25 per hour.

Effective January 1, 2015, \$8.25 per hour.

Effective March 1, 2020, \$8.75 per hour.

Effective September 1, 2021, \$9.25 per hour.

§ 3106. ALIEN OR H-2 WORKERS MINIMUM WAGE. Every employer employing an alien or aliens who have not been lawfully admitted to the United States for permanent residence by the United States Department of Justice shall pay all United States citizens and permanent residents and citizens of the Federated States of Micronesia, the Republic of Palau, the Republic of the Marshall Islands, or the Commonwealth of the Northern Mariana Islands doing the same or substantially similar work wages in an amount equal to or greater than the wages paid to the non-resident alien(s) doing the same or substantially similar work. This subsection shall not apply to any construction projects which are in progress on the effective date of this Act or for which construction contracts have been signed prior to the date this Act becomes law.

(Added by P.L. 19-31, as GC Section 46004.1, dated 10/26/88; 1994 codification as §3106.)

§ 3107. MAXIMUM HOURS; SPLIT SHIFTS. (a) No employer shall employ any employee in excess of forty (40) hours a week, unless such employee receives compensation for employment in excess of such weekly hours, at a rate not less than one and one-half (1-1/2) times the regular rate at which he is employed, except that the provisions of this Subsection shall not apply to employees covered under Section 207(k) of the Fair Labor Standards Act, Chapter 8 of

Title 29 of the United States Code; (b) No employer shall employ any employee in split shifts unless all of the shifts within a period of twenty-four (24) hours fall within a period of fourteen (14) consecutive hours, except in case of extraordinary emergency; (c) No employer shall employ any employee for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of employer and employee. Meal period shall not be considered 'on duty' or counted as time worked, unless the nature of his work prevents an employee from being relieved of duty.

(Added by P.L. 5-143, as GC Section 45005, effective 11/09/60; renumbered to 46005 & amended by P.L. 8-11, effective 03/05/65; amended by P.L. 11-83, effective 07/30/71; amended by P.L. 12-86, effective 01/16/74; 1994 codification as §3107.)

**§ 3108. EXEMPTIONS.** The provisions of §§ 3105 and 3107 shall not apply with respect to:

- (a) any employee employed by his son, daughter, spouse or parent;
- (b) (1) Any employee who is employed in a bona fide executive capacity, which is any employee who is compensated on a salary or fee basis at a rate of *not less than* Four Hundred Fifty-five Dollars (\$455.00) per week and whose primary duty is management of the enterprise where the employee is employed or of a recognized department thereof; who customarily and regularly directs the work of two (2) or more other employees; and who has the authority to hire or fire other employees or whose suggestions and recommendations as to hiring, firing, advancement, promotion, or any other change of status of other employees are given particular weight.

(2) Any employee who is employed in a bona fide administrative capacity, which is any employee who is compensated on a salary or fee basis at a rate of *not less than* Four Hundred and Fifty-five Dollars (\$455.00) per week and whose primary duty is the performance of office or non-manual work directly related to the management of the general business operations of the employer or the employer's customers, and whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

(3) Any employee who is employed in a bona fide professional capacity, which is any employee who is compensated on a salary or fee basis at a rate of *not less than* Four Hundred Fifty-five Dollars (\$455.00) per week and whose primary duty is the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor. It shall also include computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field.

(4) Any employee who is employed as an outside salesperson, which is an employee who is employed for the purpose of and who is customarily and regularly engaged away from the employer's place of business in making sales or obtaining orders or contracts for services or the use of facilities for which a consideration will be paid by the client or customer.

- (5) Any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed in this activity as a teacher in an educational establishment;
- (c) any employee employed in the propagating, catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacean, sponges, seaweeds or other aquatic forms of animal or vegetable life, including the going to and returning from work and the loading and unloading of such products prior to first processing;
  - (d) any employee employed as a seaman;
  - (e) any employee employed a driver of a vehicle carrying passengers for hire operated solely on call from a fixed stand;
  - (f) any employee employed as a golf caddie;
  - (g) any employee employed as a newspaper boy in the delivery of newspapers to the consumer.
  - (h) any employee to the extent that such employee is exempted by the Commissioner pursuant to §§ 3113 and 3114.

SOURCE: GC § 46006. Subsection (b) amended by P.L. 28-164:1 (01/04/07). Subsection (h) amended by P.L. 17-13:6; further amended by P.L. 19-3:3. Subsections (h) and (i) amended by P.L. 21-140:20.

*§ 3109.1. Publishing Applicable Laws. The Director of Labor shall post on the Department's internet website Title 22 GCA § 3108 and Title 17 GAR, Division 1, Chapter 4, as amended herein.*



**§ 3110. RECORD OF EMPLOYEES.** Every employer shall keep in or about the premises where any employee is employed, a record of the name, address, social security number or, in the case of alien workers, the passport number and occupation of each such employee, of the amount paid each pay period to each such employee, of the hours worked each day and each workweek by each such employee, and of such other information, and for such periods of time as the Commissioner, may by regulation prescribe.

The Commissioner or his authorized representative, shall have direct access to inspect, copy, or subpoena the possession of such records to conduct all necessary investigation. The Commissioner or his authorized representative, shall have the authority to inspect, copy, and use as evidence all reports, documents, and/or statements of any kind or nature submitted to any department of the government of Guam for the purpose of enforcing the provision of this Chapter. Every employer shall furnish to the Commissioner or his authorized representative such information relating to the employment of workers and in such manner that the commissioner or his representative can use to interview employees during working hours at the place of employment. The commissioner shall cause this Chapter to be printed and copies of rules and regulations issued by the Commissioner shall be furnished to employers affected thereby without charge.

(Added by P.L. 5-143, as GC Section 45007, effective 11/09/60; renumbered to 46007 & amended by P.L. 8-11, effective 03/05/65; renumbered to Section 46008 and amended by P.L. 9-159, effective 06/01/68; repealed and reenacted by P.L. 21-140, dated 10/02/92; 1994 codification as §3110.)

***Records To Be Kept:*** Certain records must be kept in accordance with FLSA. Employers are required to keep records on wages, hours, and other items listed in the recordkeeping regulations.

Most of this required information is the kind employers usually keep in ordinary business practices and in complying with other laws and regulations. No particular form of records is required. Records of the required information must be preserved for six (6) years.

Some of the specific recordkeeping items required are the following:

- (1) Name of employee, in full, and also an identifying symbol or number if such is used in place of or in addition to a name on any record kept by the employer relating to such employee;
- (2) Home Address
- (3) Date of birth;
- (4) Occupation;
- (5) Rate of pay and length of pay period;
- (6) Hours worked each workday and total hours worked each workweek;
- (7) Total daily or weekly straight time earnings or wages;
- (8) Total weekly overtime compensation;
- (9) Total additions to or deductions from wages paid each pay period; and
- (10) Total wages paid each pay period, date of payment, and pay period covered.

**§ 3121. MINIMUM WAGE; AUTOMATIC INCREASE.** Whenever a Federal Law establishes a minimum wage higher than the minimum

wage established pursuant to § 3105, the minimum wage under this Chapter shall be correspondingly increased to the minimum wage level of the Federal law with the same effective date.

(Added by P.L. 12-35, as GC Section 46019, effective 07/03/73; 1994 codification as §3121.)

## ***ARTICLE 2***

### ***FAIR LABOR STANDARDS***

**§ 3201. WAGES TO BE PAID, WHEN.** The earned wages of all employees shall be due and payable within seven (7) days after the end of each pay period, except that: (a) the earned wages of all employees discharged the employer either with or without cause shall be immediately due and payable upon discharge; (b) if an employee leaves his employment voluntarily, his earned wages shall be due and payable on the next regular pay day; (c) where work is suspended as a result of a labor dispute, the wage of all employees earned to the date of such suspension shall become due and payable at the next regular pay day.

(Added by P.L. 5-143, as GC Section 45030, effective 11/09/60; renumbered to 46030 & amended by P.L. 8-11, effective 03/05/65; 1994 codification as §3201.)

**§ 3203. FINES, DEDUCTIONS FOR.** No fines shall be collected, deducted or retained by any person out of any compensation earned by any employees.

(Added by P.L. 5-143, as GC Section 45032, effective 11/09/60; renumbered to 46032 by P.L. 8-11, effective 03/05/65; 1994 codification as §3203.)

**§ 3204. WAGES, DEDUCTIONS FROM.** It shall be unlawful for any person to deduct and retain any part of portion of any compensation earned by any employee except where required by federal or territorial statute or by court process or when such

deductions are authorized in writing by the employee, provided that deductions for fines may not be so authorized.

(Added by P.L. 5-143, as GC Section 45033, effective 11/09/60; renumbered to 46033 by P.L. 8-11, effective 03/05/65; 1994 codification as §3204.)

**§ 3216. ENFORCEMENT OF PREVAILING WAGES.** The Department of Labor is authorized to conduct, administer, apply and enforce prevailing wages required to be paid to non-immigrant alien workers under the provisions of Section 101(a)(15)(H)(ii) of 8 U.S.C. 1186 rates for the territory of Guam once they have been established by the Governor of Guam.

(Added by P.L. 21-140, as GC Section 46042.3, dated 10/02/92; 1994 codification as §3216.)

# EMPLOYEE RIGHTS UNDER GUAM'S FAIR LABOR STANDARDS ACT

## MINIMUM WAGE



**\$9.25** PER HOUR

Effective September 01, 2021

PURSUANT TO PUBLIC LAW 36-1



## EMPLOYMENT RECORDS

The law requires employers to keep accurate records of "time worked" and wages paid for all employees. Such records must include the employee's full name, address, and social security number.

## WAGES TO BE PAID

Wages for time worked, is due 7 (seven) days after the pay period ending.

### What if I...

- |  |        |                                       |
|--|--------|---------------------------------------|
| ◆ ...was fired/terminated by my employer                   | —————→ | ◆ ...due immediately upon termination |
| ◆ ...voluntarily quit/resigned, walked out, abandoned work | —————→ | ◆ ...due on the next regular pay day  |

### Wages are...

## MEAL PERIODS

An employee who is scheduled to work a period of 5 (five) hours or more, **must** be provided an unpaid and uninterrupted meal period of not less than 30 (thirty) minutes. If an employee is scheduled to complete a day's work of not more than 6 (six) hours, the meal period may be waived by mutual consent of the employee and the employer.

## OTHER RULES YOU SHOULD KNOW

### OVERTIME

Employees must be paid one and one-half (1.5) times their regular rate of pay for all hours worked over 40 (forty) in a workweek.

The Fair Labor Standards Act does not permit an employer to give "compensatory time off" in lieu of cash wages when employees work more than 40 (forty) hours during the standard 7-day workweek.

### DEDUCTIONS

Other than deductions required by law (taxes, court ordered payments, etc.) the only permissible deductions from pay are:

1. Agreed costs, or fair value of board, lodging, and other facilities
2. Deductions authorized in writing by an employee for saving plans, cash advances, loans, benefit plan contributions, etc.

The law requires that employers must show, on a check stub or pay statement, all deductions taken from an employee's pay, and a copy of it must be given to the employee.

### TIPS AND GRATUITIES

- "Tip credits" may not be used to meet the minimum wage
- Employers may not retain any portion of an employee's tip
- "Tip pooling/sharing" is an allowable practice, and an employer may not retain any of the tips for any other purpose
- A "service charge" or any other "compulsory charge for service", is not a tip. Such charges are a part of an employers gross receipts.

### CHILD LABOR

- Youths aged **14-15 years old**, may work in various non-hazard jobs, but must obtain a **Minor's Certificate for Employment**.
- Youths aged **16-17 years old**, may work in various non-hazard jobs, and **do not need** to obtain a Minor's Certificate for Employment

Visit our website to view the full conditions for Child Labor.

**Guam Department of Labor  
Wage and Hour Division**  
GCIC Building, Hagåtña

**Phone:** (671) 300-4601/2 or 475-7024  
**Email:** wage.questions@dol.guam.gov  
**Website:** dol.guam.gov/compliance/whd

Scan QR code for  
DOL's website



**STOP THE EVIL**

MRFC 24/7 HOTLINE 671-475-0400

HUMAN TRAFFICKING HOTLINE 888-373-7888

**LABOR TRAFFICKING VICTIMS  
ARE FORCED TO WORK  
FOR LITTLE TO NO PAY**



WAGE AND HOUR RULES AND REGULATIONS REQUIRES EMPLOYERS TO DISPLAY THIS NOTICE WHERE EMPLOYEES CAN READILY SEE IT.  
FAILURE TO POST THIS NOTICE MAY RESULT IN PENALTIES.

REV 03.29.2022

# FAQ

- **What is the minimum wage rate?**

As of September 1, 2021, the current minimum wage rate is \$9.25. (*Title 22, GCA § 3105; P.L. 36-1; Pg 3*)

- **When do I get paid?**

Within seven (7) days after the pay period ending. (*Title 22, GCA § 3201; Pg 9*)

- **When do I get paid when I am terminated / fired?**

Immediately, or by the next business day. (*Title 22, GCA § 3201(a); Pg 9*)

- **When do I get paid if I voluntarily quit?**

Within seven (7) days after the pay period ending. (*Title 22, GCA § 3201(b); Pg 9*)

- **When do I get a meal period and for how long?**

When working for more than 5 hours, your employer must provide you with at least a 30 min meal period; however, if 6 hours will complete your day's work, then the meal period may be waived by mutual consent. (*Title 22, GCA § 3107(c); Pg 4*)

- **When is overtime due?**

For covered, non-exempt employees, the FLSA requires overtime pay at a rate of not less than one and one-half times an employee's regular rate of pay after 40 hours of work in a workweek. Some exceptions to the 40 hours per week standard apply under special circumstances to police officers and fire fighters employed by public agencies and to employees of hospitals and nursing homes. (*Title 22, § 3107(a); Pg 3*)

- **When can an employee's scheduled hours of work be changed?**

The FLSA has no provisions regarding the scheduling of employees, with the exception of certain child labor provisions. Therefore, an employer may change an employee's work hours without giving prior notice or obtaining the employee's consent.



For additional information:



## Guam Department of Labor **WAGE & HOUR DIVISION**

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