

GOVERNMENT OF GUAM
Office of the Governor
Agana, Guam

EXECUTIVE ORDER NO. 61-14

REGULATIONS GOVERNING THE MINIMUM WAGE
AND HOUR ACT OF GUAM

WHEREAS, Section 45013, Government Code of Guam authorizes the Minimum Wage Commissioner to make such regulations as are required or appropriate to carry out the provisions of Title XLII, Government Code of Guam, "The Minimum Wage and Hour Act of Guam," subject to the approval of the Governor; and

WHEREAS, The Commissioner, following public hearing held April 21, 1961, has prescribed Rules I through VIII providing for the administration and enforcement of the Act.

NOW, THEREFORE, pursuant to the foregoing, the attached rules, as prescribed by the Minimum Wage Commissioner, are hereby approved and promulgated, and shall be in effect as of the date of this Order.

Dated at Agana, Guam, this 17th day of May, 1961.

/s/ JOSEPH FLORES
Governor of Guam

COUNTERSIGNED:

/SEAL/

/s/ HAROLD W. BURNETT
Assistant Secretary

**REGULATIONS OF THE
WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR
Government of Guam
Agana, Guam**

Under and by virtue of the authority conferred upon the Minimum Wage Commissioner by Title XLII, Government Code of Guam, and every other power thereunto enabling, the Commissioner does hereby prescribe, subject to approval by the Governor and promulgation by Executive Order, the following regulations, having the force and effect of law, relating to the administration and enforcement of the Minimum Wage and Hour Act of Guam, Title XLII, Government Code of Guam.

Rule I. DEFINITIONS.

For the purposes of the Minimum Wage and Hour Act of Guam:

(A) The term "individual employed...in a bona fide executive, administrative or supervisory capacity" shall mean any individual--

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(1) whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof; and

(2) who customarily and regularly directs the work of two or more other employees therein; and

(3) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(4) who customarily and regularly exercises discretionary powers; and

(5) who does not devote more than 20 percent of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this section; provided, however, that

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this paragraph (5) shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least 20 percent interest in the enterprise in which he is employed; and

(6) who is compensated for his services on a salary basis at a rate of not less than \$500 per month, inclusive of the reasonable cost to the employer of board, lodging or other facilities.

(B) The term "**individual employed...in a bona fide...professional capacity**" shall mean any individual--

(1) whose primary duty consists of the performance of work--

(a) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study (as distinguished from a general academic education, and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes), or

(b) original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee.

(C) The term "**individual employed...in the capacity of outside salesman**" shall mean any individual--

(1) who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in--

(a) making sales, which shall mean the transfer of title to both tangible and intangible property or

(b) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and

(2) whose hours of work of a nature other than that described on paragraphs (1)(a) or (1)(b) of this subsection do not exceed 20 percent of the hours worked in the workweek by non-exempt employees of the employer. Exempt work shall include work performance incidental to and in conjunction with the employee's own outside sales or solicitations.

(D) The term "individual employed...as an outside collector" shall mean any individual--

(1) who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in--

(a) collecting money for goods or services previously or presently furnished by his employer, or

(b) collecting money for an account placed in the hands of his employer for collection, and

(2) whose hours of work of a nature other than that described in paragraphs (1)(a) or (1)(b) of this section do not exceed 20 percent of the hours worked in the workweek by non-exempt employees of the employer. Exempt work shall include work performed incidental to and in conjunction with the employee's own outside collections.

(E) The term "retail store" shall mean any store in which goods or commodities in small quantities or parcels are sold at retail or directly to the consumer.

(F) The term "grocery store" shall mean any store in which tea, sugar, spices, coffee, fruits, and various other commodities, chiefly food stuffs, are sold.

(G) The term "gasoline station" shall mean a retail station for gasoline and oil.

(H) The term "restaurant" shall mean any establishment where refreshments or meals may be procured by the public.

(I) The terms "laundry establishment" and "dry-cleaning establishment" shall mean any establishment or place used in the business of marking, sorting, washing, drying, starching, ironing or cleaning wearing apparel, household linens and other articles with solvents, including any establishment providing laundering equipment for use by customers for a fee known by various terms such as laundromat, wash-o-mat, or launderette.

(J) The term "bakery" shall mean a place where bakery products are made or sold at retail.

(K) The terms "barber shop" and "beauty parlor" shall mean any establishment or place wherein any of the following is practiced for compensation:

(1) Shaving, clipping, trimming, or cutting the human hair.

(2) Singeing, shampooing, arranging, adorning, dressing, curling, waving, permanent waving, tinting or dyeing the human hair or apply hair tonics.

(3) Giving facial, scalp, neck, or body massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.

(4) Applying cosmetic preparations, antiseptics, powders, oils, clays, lotions, or other preparations to scalp, face, neck or hands.

(5) Manicuring or pedicuring.

(L) "Sheltered workshop" or "workshop" means a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and of providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

(M) "Handicapped client" or "client" means an individual whose earning capacity is impaired by age or physical or mental deficiency or injury, and who is being served in accordance with the recognized rehabilitation program of a sheltered workshop within the facilities of such agency or in or about the home of a client.

(N) A "learner" or "student learner" is a student who is receiving instruction in an accredited school, college, or university and who is employed on a part-time basis, pursuant to a bona fide vocational program.

(O) "Apprentice" means a worker who is employed to learn a skilled trade as defined in Rule I, Section (R), and in conformity with or substantial conformity with the standards of apprenticeship as set forth in Rule I, Section (Q).

(P) A "bona fide vocational training program" is one authorized and approved by the Territorial Diversified Occupations Advisory Council or other recognized educational body and provides for part-time employment training which may be scheduled for a part of the workday or workweek, for alternating weeks or for other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related industrial information given as a regular part of the student-learner's course by an accredited school, college or university.

(Q) An apprenticeship program must conform with or substantially conform with the following standards of apprenticeship before the Commissioner or his authorized representative will issue a special certificate authorizing employment of an apprentice under such program at wages lower than the minimum wage applicable under Section 46004 of the Act.

(1) Employment and training of the apprentice in a skilled trade. A skilled trade is an apprenticeable occupation which satisfies the criteria set forth in Rule I, Section (R).

(2) Two or more years (4,000 or more hours) or work experience.

(3) A progressively increasing schedule of wages to be paid the apprentice which averages at least 50 percent of the journeyman's rate over the period of apprenticeship.

(4) A schedule of work processes or operation in which experience is to be given the apprentice on the job.