

U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Washington

ALL \$200-A-MONTH WORKERS NOT EXEMPT

All "white-collar" workers making more than \$200 a month are not exempted under the re-definitions of "executive," "administrative," and "professional," announced today (Monday), it was emphasized by Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor. Many questions on this point were received at the Wage and Hour offices following the announcement of the new definitions which become effective on October 24, the same day on which the standard workweek drops to 40 hours under the law. Employees are not limited to 40 hours a week but must be paid time and one-half for all work in excess of that.

"Employers should examine the definitions we have just issued," said Colonel Fleming, "before coming to the conclusion that any of their employees are exempt from overtime payments because they are getting \$200 a month or more.

"The \$30-a-week clause in the definition for 'executive,' and the \$200-a-month clause in the definitions for 'administrative' and 'professional' employees (except doctors and lawyers) are accompanied by other clauses, the terms of which must be met.

"The number of inquiries coming to the Division today on these changes leads me to point out that the clauses in these definitions are usually connected by 'and'--not 'or.' As a result, an 'executive' or 'professional' or 'administrative' employee must meet all of these tests before the employer can safely abandon keeping records of his hours and paying him time and a half for overtime. It is not enough to find that one of these clauses fits the employee in question."

"For instance, a 'professional' employee must be one engaged in work 'requiring the consistent exercise of discretion and judgment in its performance,' and his work must meet six other qualifications.

"In the Fair Labor Standards Act, where Congress gave the Administrator the responsibility of amplifying and describing more precisely the type of employees to whom this exemption would be applicable, the word 'delimited' is used, as well as the word 'defined.' The Administrator is responsible therefore not only for determining which employees are entitled to the exemption, but also for drawing the line showing to which the exemption is not applicable. All employers are therefore advised that all of the tests provided in each of the definitions describing exempt classes of employees, must be met literally, if the law is to be complied with."

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