

The Companies Act, 2013

Chapter-XIII Appointment and Remuneration of Managerial Personnel

Section 197: Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits.

*197. (1) The total managerial remuneration payable by a public company, to its directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the directors shall not be deducted from the gross profits:

Provided that the company in general meeting may, ¹[**] authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V:

Provided further that, except with the approval of the company in general meeting, ²[by a special resolution,]—

(i) the remuneration payable to any one managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such directors and manager taken together;

(ii) the remuneration payable to directors who are neither managing directors nor whole-time directors shall not exceed,—

(A) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager;

(B) three per cent. of the net profits in any other case.

²[Provided also that, where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting.]

(2) The percentages aforesaid shall be exclusive of any fees payable to directors under sub-section (5).

(3) Notwithstanding anything contained in sub-sections (1) and (2), but subject to the provisions of Schedule V, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or ³[or any other non-executive director, including an independent director] by way of remuneration any sum exclusive of any fees payable to directors under sub-section (5) hereunder except in accordance with the provisions of Schedule-V ⁴[**].

(4) The remuneration payable to the directors of a company, including any managing or whole-time

director or manager, shall be determined, in accordance with and subject to the provisions of this section, either by the articles of the company, or by a resolution or, if the articles so require, by a special resolution, passed by the company in general meeting and the remuneration payable to a director determined aforesaid shall be inclusive of the remuneration payable to him for the services rendered by him in any other capacity:

Provided that any remuneration for services rendered by any such director in other capacity shall not be so included if—

(a) the services rendered are of a professional nature; and

(b) in the opinion of the Nomination and Remuneration Committee, if the company is covered under sub-section (1) of section 178, or the Board of Directors in other cases, the director possesses the requisite qualification for the practice of the profession.

(5) A director may receive remuneration by way of fee for attending meetings of the Board or Committee thereof or for any other purpose whatsoever as may be decided by the Board:

Provided that the amount of such fees shall not exceed the amount [as may be prescribed](#):

Provided further that different fees for different classes of companies and fees in respect of independent director may be such [as may be prescribed](#).

(6) A director or manager may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other.

(7) ⁵[***]

(8) The net profits for the purposes of this section shall be computed in the manner referred to in section 198.

⁶[(9) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without approval required under this section, he shall refund such sums to the company, within two years or such lesser period as may be allowed by the company, and until such sum is refunded, hold it in trust for the company.]

(10) The company shall not waive the recovery of any sum refundable to it under sub-section (9) unless ⁷[approved by the company by special resolution within two years from the date the sum becomes refundable].

²[Provided that where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining approval of such waiver.]

(11) In cases where Schedule V is applicable on grounds of no profits or inadequate profits, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum

or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect unless such increase is in accordance with the conditions specified in that Schedule ⁸[**].

(12) Every listed company shall disclose in the Board's report, the ratio of the remuneration of each director to the median employee's remuneration and such other details [as may be prescribed](#).

(13) Where any insurance is taken by a company on behalf of its managing director, whole-time director, manager, Chief Executive Officer, Chief Financial Officer or Company Secretary for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in relation to the company, the premium paid on such insurance shall not be treated as part of the remuneration payable to any such personnel:

Provided that if such person is proved to be guilty, the premium paid on such insurance shall be treated as part of the remuneration.

(14) Subject to the provisions of this section, any director who is in receipt of any commission from the company and who is a managing or whole-time director of the company shall not be disqualified from receiving any remuneration or commission from any holding company or subsidiary company of such company subject to its disclosure by the company in the Board's report.

⁹[(15) If any person makes any default in complying with the provisions of this section, he shall be liable to a penalty of one lakh rupees and where any default has been made by a company, the company shall be liable to a penalty of five lakh rupees.]

²[(16) The auditor of the company shall, in his report under section 143, make a statement as to whether the remuneration paid by the company to its directors is in accordance with the provisions of this section, whether remuneration paid to any director is in excess of the limit laid down under this section and give such other details [as may be prescribed](#).

(17) On and from the commencement of the Companies (Amendment) Act, 2017, any application made to the Central Government under the provisions of this section [as it stood before such commencement], which is pending with that Government shall abate, and the company shall, within one year of such commencement, obtain the approval in accordance with the provisions of this section, as so amended.]

Reference

*[Effective from](#) 01.04.2014.

1. Omitted by the [Companies \(Amendment\) Act, 2017](#), w.e.f. 12.09.2018[S.O. 4823(E) dated 12.09.2018], the words "*with the approval of the Central Government,*".

2. Inserted by the [Companies \(Amendment\) Act, 2017](#), w.e.f. 12.09.2018[S.O. 4823(E) dated 12.09.2018].

3. Substituted by the [Companies \(Amendment\) Act, 2020](#), w.e.f. 18.03.2021[S.O. 1255(E) dated 18.03.2021], for the words “*whole time director or manager*,”.

4. Omitted by the [Companies \(Amendment\) Act, 2017](#), w.e.f. 12.09.2018[S.O. 4823(E) dated 12.09.2018], the words “*and if it is not able to comply with such provisions, with the previous approval of the Central Government*”.

5. Omitted by the [Companies \(Amendment\) Act, 2019](#), w.e.f. 02.11.2018, the sub-section:

“(7) Notwithstanding anything contained in any other provision of this Act but subject to the provisions of this section, an independent director shall not be entitled to any stock option and may receive remuneration by way of fees provided under sub-section (5), reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.”.

6. Substituted by the [Companies \(Amendment\) Act, 2017](#), w.e.f. 12.09.2018[S.O. 4823(E) dated 12.09.2018], for sub-section:

“(9) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without the prior sanction of the Central Government, where it is required, he shall refund such sums to the company and until such sum is refunded, hold it in trust for the company.”.

7. Substituted by the [Companies \(Amendment\) Act, 2017](#), w.e.f. 12.09.2018[S.O. 4823(E) dated 12.09.2018], for the words “*permitted by the Central Government*”.

8. Omitted by the [Companies \(Amendment\) Act, 2017](#), w.e.f. 12.09.2018[S.O. 4823(E) dated 12.09.2018], the words “*and if such conditions are not being complied, the approval of the Central Government had been obtained*”.

9. Substituted by the [Companies \(Amendment\) Act, 2019](#), w.e.f. 02.11.2018, for the sub-section:

“(15) If any person contravenes the provisions of this section, he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.”.

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