

Comparison of Provision of Appointment and Remuneration of Managerial Personnel CA-2013 and Amendment Proposed by "Report of the Company Law Committee)

Particular	Original Provision under CA-2013	Provision after proposed amendment, if approved.
Section 197 Managerial remuneration	(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 whole-time director or manager, 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 and if it is not able to comply with such provisions, with the previous approval of the Central Government	(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 whole-time director or manager, 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 and if it is not able to comply with such provisions, with the previous approval of the Central Government <u>necessary safeguards in the form of additional disclosures, audit, higher penalties, etc. may be prescribed instead of Government Approval.</u>
Section 198 (4) Calculation of profits	In making the computation profit, the following sums shall be deducted, namely:—	<u>a. Amendment of Section 198(4)(l), to include brought forward losses of the years subsequent to the Companies (Amendment) Act, 1960.</u>

	Section 198(4) requires that while calculating profits for managerial remuneration, the profits on sale of investments to be deducted.	So committee recommended that: <u>Specific provisions for investment companies, whose principal business is sale and purchase of investments, to be incorporated in the Act</u>
Section 203 read with Schedule V Appointment of key managerial personnel	A "key managerial personnel", in relation to a company, means— (i) the Chief Executive Officer or the managing director or the manager; (ii) the company secretary; (iii) the whole-time director; (iv) the Chief Financial Officer; and (v) such other officer as may be prescribed;	A "key managerial personnel", in relation to a company, means— (i) the Chief Executive Officer or the managing director or the manager; (ii) the company secretary; (iii) the whole-time director; (iv) the Chief Financial Officer; and (v) such other person as may be appoint by Board as KMP (vi) such other officer as may be prescribed; <u>a. Board to be empowered to designate other whole time officers of the company as key managerial personnel and the definition of key managerial personnel in Section 2(51) to be accordingly modified</u> given above.
Section 203 read with Schedule V Appointment of key managerial personnel	Here in Companies Act, 2013 A whole time KMP not allowed to hold more than one position in the Company.	<u>b. A whole time key managerial personnel, holding necessary qualifications, to be allowed to hold more than one position in the same company at the same time.</u>
	There is no provision under the act for filing of form by	<u>c. Companies to file information (similar to that for auditors) on the</u>



	the resigning KMP with ROC. <u>Committee suggest to am enabling provisions for a Company Secretary, CFO, CEO to file his resignation with the Registrar, on lines similar to that for a director under Section 168 as may be provided.</u>	<u>resignation of any of the KMPs in the Registry.</u>
	No person shall be eligible for appointment as a managing or whole-time director or a manager (hereinafter referred to as managerial person) of a company he is non-resident of India	No person shall be eligible for appointment as a managing or whole- time director or a manager (hereinafter referred to as managerial person) of a company he is non- resident of India <u>d. The requirement under Schedule V for a foreign national to have stayed in India for a year in order to be a Managing Director/ Whole time director to be done away with.</u>