

Revision of procedure for approval by Central Government for payment of remuneration to a relative of a director for holding an office or place of profit in the company

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Background

Section 314 (1 B) of the Companies Act 1956 (the Act) provides that

- a) no partner or relative of a director or manager,
- b) no firm in which such director or manager, or relative of either, is a partner,
- c) no private company of which such a director or manager, or relative of either, is a director or member,

shall hold any office or [place of profit](#) in the company which carries a total monthly remuneration of not less than such sum as may be prescribed, except with the prior consent of the company by a special resolution and the approval of the Central Government.

The Central government had in terms of the provisions of the Act notified the Director's Relatives (office or Place of Profit) Rules, 2003 (the Rules) which inter alia provided that approval of the Central Government will be required in terms of the aforesaid provisions of Section 314 (1 B) of the Act if the monthly remuneration exceeds Rs. 50,000 per month.

Amendments in the above vide [Notification \(F. No. 17/75/2011-C. L. V\) dated 6 April 2011](#) issued by the Ministry of Corporate Affairs, Government of India.

Increase in monetary limits :- The Central Government has on April 6, 2011 amended the said Rules to provide that no approval of the Central Government will be required under [section 314 \(1 B\)](#) of the Act if the monthly remuneration does not exceed Rs. 250,000 per month.

Changes in procedure

The Rules also provide the procedure that may be adopted by the Central Government for considering application under section 314 (1 B) of the Act. One of the aspects to be considered by the Central Government is procedure followed by a company for selection and appointment of a relative of a director for holding office or place of profit in the company.

The Rules provide that in case of a public company such appointment of a relative of a director has to be approved by a Selection Committee comprising of majority of independent directors and an expert in the respective field from outside the company.

The Rules for Selection committee have been amended to clarify and provide that:

- (a) the requirement of having Selection committee approval for appointment of a relative of a director to office or place of profits also extends to listed companies;
- (b) In case of an unlisted public company, independent directors are not necessary but outside expert should be there in the Selection committee;
- (c) In case of a private company, independent directors and outside experts are not necessary.