

Director's Relative (Office or Place of Profit) Rules, 2011

UNION OF INDIA

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Rule

DIRECTOR-S-RELATIVE-OFFICE-OR-PLACE-OF-PROFIT-RULES-2011 of 2011

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Director's Relative (Office or Place of Profit) Rules, 2011Published vide Notification No. G.S.R. 357(E), dated 2nd May, 2011Ministry of Corporate AffairsG.S.R. 357 (E). - In exercise of the powers conferred by clause (b) of sub-section (1) of Section 642, read with sub-section (1B) of Section 314 of the Companies Act, 1956, the Central Government hereby makes the following Rules in supersession of the earlier Notification No. G.S.R. 89(E) dated 5-2-2003, namely :-

1. Short Title and Commencement.

(1)These rules may be called Director's Relative (Office or Place of Profit) Rules, 2011.(2)They shall come into force on the date of their publication in the Official Gazette.

2. Applicability.

- These rules shall apply to all companies registered under the Companies Act, 1956 except as provided in these rules.

3. Approval of the Central Government in case of Appointment of Relatives, etc. of Directors.

- No appointment for an office, or place of profit in a company shall take effect unless approved by the Central Government on an application, in respect of:-(a)Partner of firm or relative of a Director or Manager; or(b)Firm in which such Director, or Manager or relative of either is a partner; or(c)Private Company of which such Director or Manager or relative of either is a Director, or

member, which carries a monthly remuneration exceeding, Rs. 2,50,000 p.m.(d)An individual who is a relative of a Director, or Manager and is appointed as an Advisor or Consultant and paid remuneration including commission on periodical basis.

4. Selection of Relatives of Directors and Directors to Hold a Place of Office/Profit.

(a)The selection and appointment of a relative of a Director for holding office or place of profit in the company with a salary exceeding Rs. 2,50,000 per month shall be approved by adopting the same procedure applicable to non-relatives and approved by a Selection Committee.Explanation: For the purpose of the sub-rule, in the case of listed public companies, the expression "Selection Committee" means a committee, consisting at least three members, the majority of which shall be independent Directors and an outside Expert :Provided that in case of unlisted companies, independent Directors are not necessary but outside experts should be there in the Selection Committee:Provided further that in the case of private companies, Selection Committee is not necessary.

5. Procedure for Examination of Application.

- The application under rule 3 shall be examined with respect to the following, in addition to all other requirements under the Companies Act, 1956 :-(a)In the case of individual appointee, an undertaking from him that he/she will be in the exclusive employment of the company and will hold a place of profit in any other company.(b)The monetary value of all allowances and perquisites and of total remuneration package (monthly/annually proposed to be paid to the appointee and details of the services that will be rendered by him to the company.(c)Details of shareholding pattern particularly the shareholding of the directors along with his/her/their relatives, the public holding, institutional holding (each institution separately) and the quantum of dividend paid by the company during the last three preceding financial years.(d)Details of the educational qualification/experience, pay scale, allowances and other benefits of similarly placed executives.(e)In case of the appointment of a relative, an undertaking from the Director/Company Secretary of the company that the similarly placed employees are getting the comparable salary.(f)List and particulars of the employees who are in receipt of remuneration of Rs. 2,50,000 or more per month.(g)The total number of relatives of all the Directors either appointed as Manager/Whole time Director, Manager or in any other position in the company, the total remuneration paid to all of them altogether as a percentage of profit as calculated for the purpose of Section 198 of the Companies Act, 1956.