

**Lecture -  
14**

**Chapter - 3  
"Appointment and Remuneration of Managerial Personnel"**

Chapter XIII of Companies Act, 2013				
Appointment of MD / WTD / Manager	Managerial remuneration	Compensation for loss of office MD / WTD / Manager	Appointment of KMP	Secretarial aspects
- Sec. 196 and 201 - Part I of Sch. V - Rule 3 and Rule 7	- Sec. 197 and 198 - Sec. 199 and 200 - Part II of Sch V	- Sec. 202	- Sec. 203 - Rule 8 - Rule 8A	- Sec. 204 - Sec. 205 - Rule 9 - Rule 10
<b>(i) <u>Definition of Manager, Managing director and Whole - time director:</u></b>				
Sec. 2(53), Sec. 2(54) and Sec. 2(94) - Self Study from main Book				
<b>(ii) <u>Appointment of M.D, WTD and Manager (Sec. 196):</u></b>				
<b><u>Sec. 196(1):</u> No Company shall appoint or employ a M.D. and a Manager → at the same time.</b>				
<b><u>Sec. 196(2):</u> No company shall appoint/reappoint any person as its M.D., WTD or Manager for a term exceeding 5 years at a time. (i.e. ≤ 5 years)</b>				
<b>Note: No re-appointment shall be made earlier than 1 year before the expiry of his term.</b>				
<p>The diagram shows a horizontal timeline with two 5-year periods. The first period is marked with a bracket and '5 years'. At the end of this period, a vertical line indicates the expiry. An arrow points to a point '1 year before expiry' where a re-appointment is attempted, labeled 're-appointment 1 year before expiry - not permitted'. A second 5-year period starts '1 year before' the first period's expiry, labeled 'reappointment within 1 year before expiry - permitted'.</p>				
<b><u>Exemption:</u> Sec. 196(2) shall not apply to Government companies.</b>				

**Sec. 196(3):** No Company shall appoint or continue the employment

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of any person as M.D, WTD or Manager, who

(a) is below the age of 21 years or has attained the age of 70 years.

**Note:** Appointment of a person who has attained the age of 70 years may be made by passing a special resolution in which case the explanatory statement shall indicate the justification for appointing such person.

If SR not passed, but votes cast in favour of motion exceeds the votes, if any, cast against the motion and C.G. is satisfied that such appointment is most beneficial to the company, appointment of the person who has attained the age of 70 years may be made.

(b) is an undischarged insolvent

or

has at any time been adjudged as an insolvent.

(c) has at any time suspended payment to his creditors

or

makes, or has at any time made a composition with them.

(d) has at any time been convicted by a court of an offence and sentenced for a period > 6 months.

**Part I of Schedule V: Conditions to be fulfilled for the appointment of a MD or WTD or a Manager without the approval of the Central Government:**

No person shall be eligible for appointment as a MD or WTD or a manager of a company unless he satisfies the following conditions, namely:

(a) he had not been sentenced to imprisonment for any period, or to a fine exceeding ₹1,000, for the conviction of an offence under any of the specified Acts.

(b) he had not been detained for any period under the COFEPOSA Act.

(c) he has completed the age of 21 years and has not attained the age of 70 years.

Note: Where a person has attained the age of 70 years; and the appointment is approved by a SR, no further approval of the C.G. shall be necessary for such appointment.

- (d) Omitted  
(e) he is resident of India.

**Sec. 196(4): Procedure for appointment (with Rule 3)**

- (i) **Approvals required:**
- BOD (at a meeting)
  - General Meeting (OR)
- and
- C.G. (if appointment is at variance to conditions specified in Part I of Schedule V\*)

\* Procedure for obtaining approval is prescribed u/s 201 and Rule 7.

- (ii) **Notice to include:**
- terms and conditions of appointment;
  - remuneration payable; and
  - such other matters including interest of director(s) in such appointments, if any.
- (iii) **Filing of return:**
- in form MR 1
  - within 60 days of appointment.

**Sec. 196(5): Validity of acts of M.D., WTD or manager**

Where an appointment of a M.D, WTD or Manager

is not approved by the company in general meeting

any act done by them before such approval shall be considered valid.

Note: Sec. 196(4) and 196(5) shall not apply to Government and private companies.

**Sec. 201 and Rule 7:** Every application made to C.G. u/s 196 shall be in Form No. MR 2 and shall be made within a period of 90 days from the date of such appointment.

DO Practice - Questions on Sec. 196

