

# [The profits computed in the manner laid down](https://assignbuster.com/the-profits-computed-in-the-manner-laid-down/)

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The act has fixed that the total remunerationpayable to all directors in a company shall not exceed 11% of its net profitscomputed in the manner laid down in sections 349 and 350 of the act. Theseprovisions do not apply to a private limited company. It has already been mentioned that the managerialremuneration payable to any one person (Managing director, Whole-time director, Manager) shall not exceed 5% of the net profit. Director Rendering Professional Services  A director, who holds specialized qualification may be appointed in a professional capacitycorresponding to his qualification, like technical director or financedirector, etc. Such appointment shall be made: If the services rendered are of a professionalnatureIn the opinion of the central government, the personpossesses the requisite qualification for the practice of the profession. No form is prescribed for making the aboveapplication to the central government. But the bank draft/challan for feesprescribed under companies (Fees on Applications) Rules, 1999.

To be eligibleto call oneself as a professional, the person must have professionalqualification and he must use his professional knowledge and skill forrendering services. Membership of a professional body may be one aspect whichwill be considered. By way of illustration it may be stated that an engineer, medical, doctor, editor of newspapers and magazines, journalists, solicitor andadvocate, architect and similar such persons may be taken to be exercising aprofession. Approval under section 314 also requiredWhere a director is appointed in his professionalcapacity, such appointment shall also be approved by the members by specialresolution at the general meeting held  first  afterthe appointment is made. Position of secretary holding office asdirectorThe department has clarified that the appointment ofwhole-time company secretary as a part-time director on the board did notrequire the approval of the central government under section 269(1) of the act.

Can a director be appointed as manager? As per the definition, a Manager includes a directoroccupying the position of manager. Accordingly a director of a company may alsobe appointed as manager under schedule without government approval. As suchperson will be a director with managerial powers, he should not have beendisqualified as per section 385 within the preceding five years. Further the said appointment need not be approved bythe general meeting by special resolution in terms of section 314, in view ofthe exemption. Designating employees as specialdirectors with no membership on the boardThe department’s clarification vide circularNo. 11/90 dated 29-5-1990 on this matter is quoted below: I am directed to refer to this department circularno.

1/1/82-CL. V dated 20-1-1983 addressed to all chambers of commerce and to saythat many companies are still designating their executives, who are not membersof the board of directors, as special directors etc. Such designations give animpression to public at large and those dealing with these companies and theexecutives that they are full-fledged directors entitled to act as such onbehalf of the companies. If in fact these executives are not directors on theboard of the companies, it will be patently wrong on the part of the companiesto designate them as directors.