

MAJOR PENALTIES UNDER COMPANIES ACT, 2013

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Overview Of Penalties




- The law poses various obligations to be discharged by the Companies , Directors, Managers and other Officials.



- Non-compliance of such obligations attracts punishment which may be imprisonment and/ or fine/ penalty.



- The Companies Act, 2013 has come up with more stringent punishment and penalties for the non- compliance of various provisions of and rules under the Act as compared to the former Companies Act, 1956.




- Therefore, Companies and other responsible person(s) must look the same for ascertaining the implications of the actions done/ to be done by themselves so that the requisite compliance should be in place within prescribed time.

Specific and Residual Penalty



Specific Penalty

Any Contravention related to any of the provision of this Act, or any rules made thereunder for which separate penalty is specified. For example, section 147, Section 159 etc.



Any Contravention related to any of the provisions of this Act, or any rules made thereunder for which no separate penalty is specified. For example, Section 450, Section 447 etc.

Residual Penalty

Chapter II Incorporation of Company and Matters Incidental thereto

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 3A	Members severally liable in certain cases	Every person who is a member of the company during the time that it so carries on business after those six months and is cognizant of the fact that it is carrying on business with less than seven members or two members, as the case may be,	Shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor

Chapter II Incorporation of Company and Matters Incidental thereto

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 8(11)	Formation of Companies with Charitable Objects - Default in compliance	In Case of Company	Fine - Minimum - Rs. 10,00,000 Maximum - Rs. 1,00,00,000
		In case of Director and every officer of the company who is in default shall be punishable with	Fine: Minimum- Rs. 25,000 Maximum - Rs. 25,00,000

Chapter III Part - I Prospectus and Allotment of Securities

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 26	Matters to be stated in prospectus - Contravention of provisions relating to issue of a prospectus	In Case of Company	Fine - Minimum - Rs. 50,000 Maximum - Rs. 3,00,000
		In Case of every person who is knowingly a party to the issue of such prospectus shall be punishable with	Fine: Minimum- Rs. 50,000 Maximum- Rs. 3,00,000

Chapter VII Management and Administration

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 92 (1) Annual Return	In case a company fails to file its annual return within specified period (i.e. 60 days from AGM).	Company and every officer who is in default shall be punishable with	Fine - Minimum - Rs. 10,00,000 Maximum - Rs. 1,00,00,000
Section 92 (6) Annual Return	If a company secretary in practice certifies the annual return otherwise than in conformity with the requirements of this section or the rules made thereunder.	Such Company Secretary in practice	Liable to Rs. 2,00,000

Chapter VII Management and Administration

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 105 Proxies	If for the purpose of any meeting of a company, invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company's expense to any member entitled to have a notice of the meeting sent to him and to vote thereat by proxy.	Every officer of the company who issues the invitation as aforesaid or authorises or permits their issue	Liable to a penalty of Rs. 50,000.

Chapter VIII Declaration and Payment of Dividend

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 124(7) Unpaid Dividend Account	Company fails to comply with any of the requirements of this section	In case of company	Fine - Minimum - Rs. 1,00,00 and in case of continuing failure, with a further penalty of Rs. 500 for each day after the first during which such failure continues, Maximum - Rs. 10,00,000
		In case of every officer of the company who is in default	Fine - Rs. 25,000 and in case of continuing failure, with a further penalty of Rs. 100 for each day after the first during which such failure continues, Maximum - Rs. 2,00,000

Chapter VIII Declaration and Payment of Dividend

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 127 Punishment for Failure to Distribute Dividends	Where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend,	Every director of the company shall, if he is knowingly a party to the default	Imprisonment which may extend to 2 years and with Fine - Minimum - Rs. 1000 for every day during which such default continues and the company shall be liable to pay simple interest at the rate of 18% per annum during the period for which such default continues

Chapter IX Account of Companies

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 128 Books of Account, etc., to be kept by Company	If the MD, the WTD in charge of finance, CFO or any other person of a company charged by the Board with the duty of complying with the provisions of this section, contravenes such provisions	Such MD, WTD in charge of finance, CFO or such other person of the company shall be punishable	Imprisonment - for a term which may extend to 1 year or with Fine - Minimum - Rs. 50,000 Maximum - Rs. 5,00,000 or with both
Section 134 Financial statement, Board's report, etc.	If a company fails to comply with the provisions regarding signing of financial statement and contents & signing of Board's Report	In case of Company	Penalty of Rs. 3,00,000 and
		Every officer of the company	Penalty of Rs. 50,000.

Chapter IX Account of Companies

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 135 Corporate Social Responsibility	Company is in default in complying with the provisions of sub-section (5) or sub-section (6),	In Case of Company	Penalty of 2 x amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent CSR Account, as the case may be, or Rs. 100,00,0000, whichever is less, and
		Every officer of the company	Penalty of 1/10 th of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent CSR Account, as the case may be, or Rs. 2,00,000, whichever is less.

Chapter IX Account of Companies

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 137 Copy of financial statement to be filed with Registrar	In case a company fails to file the copy of the financial statements with the Registrar within the time specified therein (i.e. within 30 days from the date of AGM).	In Case of company	Minimum - 10,000 and in case of continuous default Rs. 100 for each day during which the failure continues and Maximum amount of penalty Rs. 200,000.
		In case of MD/ CFO/ directors who is in default	Minimum - 10,000 and in case of continuous default Rs. 100 for each day during which the failure continues Maximum amount of penalty Rs. 50,000

Chapter X Audit and Auditors

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 140 Removal, Resignation of Auditor and Giving of Special Notice	Auditor fails to file his resignation with the Registrar within the time specified therein (i.e. 30 days from the date of resignation).	Auditor	Penalty of Rs. 50,000 or an amount equal to the remuneration of the auditor, whichever is less, and in case of continuing failure, with further penalty Rs. 500 for each day after the first during which such failure continues, subject to a maximum of Rs. 200,000.
Section 143 Powers and duties of auditors and auditing standards	If any auditor, cost accountant or company secretary in practice does not comply with the provisions regarding reporting of fraud.	Such professional shall be liable to a penalty:	<ul style="list-style-type: none">• In case of a listed company: Rs. 5,00,000;• In case of any other company: One lakh rupees.

Chapter X Audit and Auditors

Section No.	Nature of default	Person responsible	Punishment for Contravention
147(1)	Contravention of Section 139 to Section 146	In case of company	Minimum - Rs.25,000 Maximum - Rs. 500,000
		In case of every officer of the company who is in default shall be punishable with	Minimum-Rs.10,000; Maximum- Rs. 1,00,000
147(2)	Contravention of Section 139 , Section 144 or Section 145	Auditor	Fine - Minimum -Rs. 25,000 Maximum - Rs. 500,000 or 4 x remuneration of the auditor, whichever is less.
		Auditor - If Contravention is knowingly and willfully with the intention to deceive the company or its shareholders or creditors or tax authorities	Imprisonment - For a term which may extend to one year and with Fine - Minimum - Rs. 50,000 Maximum - Rs. 25,00,000 or 8 X remuneration of the auditor, whichever is less

Chapter X Audit and Auditors

Section No.	Nature of default	Person responsible	Punishment for Contravention
147(3)	If the auditor convicted in above section, he shall be liable to	Auditor	(i) refund the remuneration received by him to the company; and (ii) pay for damages to the company, statutory bodies or authorities or to members or creditors of the company for loss arising out of incorrect or misleading statements of particulars made in his audit report.

Chapter XI Appointment and Qualifications of Directors

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 159 Penalty for Default of Certain Provisions	Contravention by Individual or Director covered in Section 152, 155 & 156	Such individual or director of the company shall be liable	Rs. 50,000 and where the default is a continuing one, with a further penalty which may extend to Rs. 500 for each day after the first during which such default continues.
Section 165 Number of directorships	Contravention -In case a person holds office as a director in more than the limit specified therein.	Person holding office as a director in more than the limit specified therein.	Amount of penalty on such person Rs. 2,000 for each day after the first during which such violation continues, and maximum amount of penalty restricted to Rs. 2,00,000.

Chapter XI Appointment and Qualifications of Directors

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 167 Vacation of office of director	If a person, functions as a director even when he knows that the office of director held by him has become vacant on account of any of the disqualifications specified in this section	Person specified	Minimum - Rs.100,000 ; Maximum- Rs. 5,00,00.

Chapter XI Appointment and Qualifications of Directors

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 172 Punishment	If a company contravenes any of the provisions of Chapter XI and for which no specific punishment is provided therein	Company and every officer of the company who is in default shall be liable	Rs. 50,000, and in case of continuing failure, with a further penalty of Rs. 500 for each day during which such failure continues, In case of a company - Maximum - Rs. 3,00,000 and in case of an officer who is in default - Rs. 1,00,000
Section 178 Nomination and Remuneration Committee and Stakeholders Relationship Committee	In case of any contravention of the provisions of sections 177 and 178.	In case of Company	Rs. 5,00,000
		Every officer of the company who is in default	Rs. 1,00,000

Chapter XII Meetings of Board and its Powers

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 184 Disclosure of interest by director	If a director of the company does not disclose the nature of his interest under this section.	Director of a Company	Rs 1,00,000
Section 187 Investments of company to be held in its own name	If a company contravenes the provisions of this section	In case of company	Rs. 5,00,000
		Every officer of the company who is in default	Rs. 50,000

Chapter XII Meetings of Board and its Powers

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 188 Related Party transactions	Any director or any other employee of a company, who had entered into or authorised the contract or arrangement in violation of the provisions of this section	Such director or employee	In case of listed company - Rs. 25,00,000
			In case of company other than listed company - Rs. 5,00,000.

Chapter XIII Appointment and Remuneration of Managerial Personnel

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 204 Secretarial audit for bigger companies	Any director or any other employee of a company, who had entered into or authorised the contract or arrangement in violation of the provisions of this section.	Such director or employee	In case of listed company - Rs. 25,00,000
			In case of company other than listed company - Rs. 5,00,000

Chapter XIV Inspection, Inquiry and Investigation

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 229	Penalty for Furnishing False Statement, Mutilation, Destruction of Documents	Where a person who is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, or an officer or other employee of a company or other body corporate which is also under investigation	He shall be punishable for fraud in the manner as provided in section 447.

Chapter XV Compromises, Arrangements and Amalgamations

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 240	Liability of Officers in Respect of Offences Committed Prior to Merger, Amalgamation, etc.	Officers in Respect of Offences Committed Prior to Merger, Amalgamation	Notwithstanding anything in any other law for the time being in force, the liability in respect of offences committed under this Act by the officers in default, of the transferor company prior to its merger, amalgamation or acquisition shall continue after such merger, amalgamation or acquisition.

Chapter XX - Winding Up

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 337	Penalty for Frauds by Officers	Officers of a company	Imprisonment Minimum - 1 year Maximum - 3 years and Fine Minimum - Rs. 1,00,000 Maximum - 3,00,000.

Chapter XXII Companies Incorporated Outside India

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 392	Contravention of section 391 - Application of Sections 34 (Criminal Liability for Mis-statements in Prospectus) to 36 (Punishment for Fraudulently Inducing Persons to Invest Money and Chapter XX (Winding Up)	Foreign company	Minimum - Rs. 1,00,000 Maximum - Rs. 3,00,000 and in the case of a continuing offence, with an additional fine which may extend to Rs. 50,000 for every day after the first during which the contravention continues
		Every officer of the foreign company who is in default	Minimum - Rs. 25,000 Maximum - Rs. 25,00,000

Chapter XXVIII Special Courts

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 446 - B	Lesser Penalties for OPC & Small companies	If penalty is payable for non-compliance of any of the provisions of this Act by a One Person Company, small company, start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, such company, its officer in default or any other person, as the case may be	Shall be liable to a penalty which shall not be more than 1/2 of the penalty specified in such provisions subject to a in In case of a company maximum - Rs. 2,00,000 and In case of an officer who is in default or any other person, as the case may be Rs. 100,000.

Chapter XXIX Miscellaneous

Section No.	Amount Involved	Punishment for Contravention
Section 447	If the amount involved in fraud is at least 10 lakh rupees or 1% of the turnover of the company, whichever is lower	Imprisonment - Minimum - 6 months Maximum - 10 years and Fine - Minimum - Amount involved in the fraud, Maximum - 3 x the amount involved in the fraud.
	Where the fraud in question involves public interest	the term of imprisonment shall not be less than 3 years.
	Where the fraud involves an amount less than 10 lakh rupees or 1% of the turnover of the company, whichever is lower, and does not involve public interest	Imprisonment - For a term which may extend to 5 years or with Fine which may extend to Rs. 50,00,000 or with both.

Chapter XXIX Miscellaneous

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 448	<p>If in any return, report, certificate, financial statement, prospectus, statement or other document required by, or for, the purposes of any of the provisions of this Act or the rules made thereunder, any person makes a statement,—</p> <p>(a) which is false in any material particulars, knowing it to be false; or</p> <p>(b) which omits any material fact, knowing it to be material,</p>	Any person makes a statement	Liable u/s 447

Chapter XXIX Miscellaneous

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section 449	<p>Punishment for False Evidence</p> <p>If any person intentionally gives false evidence—</p> <p>(a) upon any examination on oath or solemn affirmation, authorized under this Act; or</p> <p>(b) in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act,</p>	Any person intentionally gives false evidence	Imprisonment Minimum - 3 year Maximum - 7 years and Fine Maximum - 10,00,000.

Chapter XXIX Miscellaneous

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section - 451	<p>Punishment in Case of Repeated Default</p> <p>If a company or an officer of a company commits an offence punishable either with fine or with imprisonment and where the same offence is committed for the second or subsequent occasions within a period of 3 years then,</p>	Company and every officer thereof who is in default	2 x amount of fine for such offence in addition to any imprisonment provided for that offence.

Chapter XXIX Miscellaneous

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section - 450	Punishment Where No Specific Penalty or Punishment is Provided	If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default	Penalty - Rs. 10,000, and in case of continuing contravention, with a further penalty of Rs. 1000 for each day after the first during which the contravention continues, In case of a company Maximum - Rs. 2,00,000 in case of an officer who is in default or any other person -Rs. 50,000

Chapter XXIX Miscellaneous

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section - 453	<p>Punishment for Improper Use of “Limited” or “Private Limited”</p> <p>If any person or persons trade or carry on business under any name or title, of which the word “Limited” or the words “Private Limited” or any contraction or imitation thereof is or are the last word or words,, unless duly incorporated with limited liability, or unless duly incorporated as a private company with limited liability, as the case may be,</p>	Person or each of those persons	Minimum - Rs. 500 Maximum - Rs. 2000 for every day for which that name or title has been used.

Chapter XXIX Miscellaneous

Section No.	Nature of default	Person responsible	Punishment for Contravention
Section - 454A	Penalty for repeated default Where a company or an officer of a company or any other person having already been subjected to penalty for default under any provisions of this Act, again commits such default within a period of 3 years from the date of order imposing such penalty passed by the <u>adjudicating officer or the Regional Director</u>	Company or an officer of a company or any other person	2 x amount of penalty for the second or subsequent defaults

THANK YOU