

**DECRIMINALIZATION OF
OFFENCES AND OTHER
AMENDMENTS UNDER THE
COMPANIES (AMENDMENT)
BILL, 2020**





Framework for dealing with defaults/offences under the Companies Act, 2013



Three basic concepts

01

Liabile to
penalty or
fine and/or
imprisonment

02

Cognizable
or non-
cognizable

03

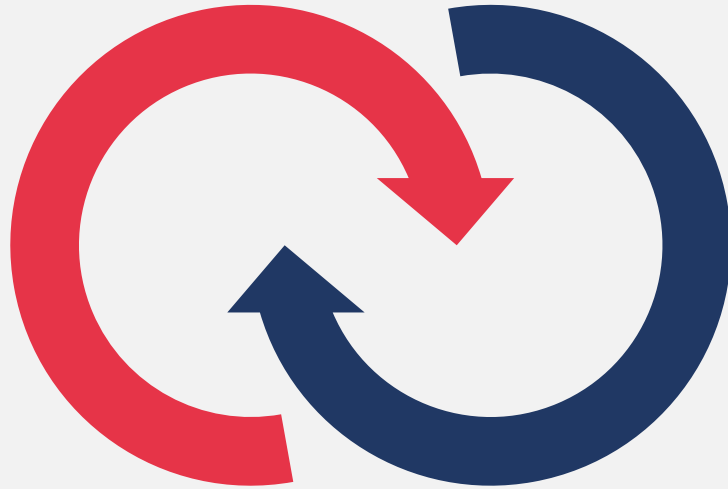
Compoundable
or non-
compoundable



Difference between penalty or fine/ imprisonment under the Companies Act, 2013

Penalty

Wherever, the word used in the section is penalty, it means the default is within the in-house adjudication mechanism i.e. the amount of penalty will be adjudicated by ROC.



Fine/imprisonment

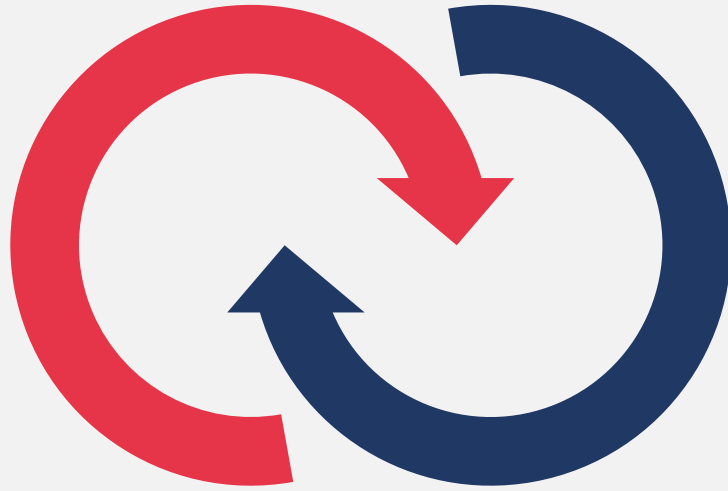
Wherever, the word(s) used are fine, fine and/or imprisonment, it means the adjudication of fine/imprisonment will be done by the court of competent jurisdiction.



Difference between Cognizable and Non-cognizable Offences

Cognizable

All offences which amount to fraud (punishable under section 447) are cognizable offences.



Non- cognizable

All offences under the Companies Act except offences which tantamount to fraud (section 447) are non-cognizable.



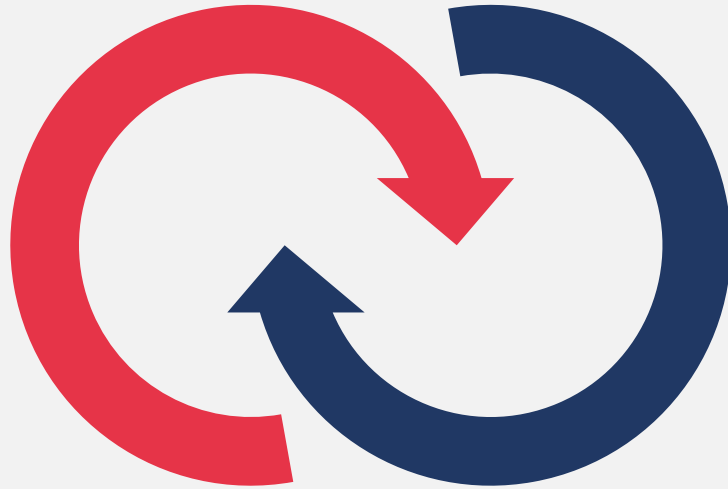
Difference between Compoundable and Non-compoundable

Compoundable

Offences punishable:

- With fine only;
- With fine or imprisonment or both are compoundable.

or



Non-compoundable

Offences punishable with fine and imprisonment are non-compoundable.



Categorization of Offences under the Companies Act, 2013



Defaults/Offences under the Companies Act, 2013 can be broadly categorised into two types:

1. Defaults liable to penalty (**In-house Adjudication**);
2. Defaults/Offences liable to punishment:
 - ✍ With Fine only (**Compoundable**);
 - ✍ With Fine or Imprisonment or with both (**Compoundable**); and
 - ✍ With Fine and Imprisonment (**Non-compoundable**).

In my view, as a matter of principle, all offences which do not tantamount to fraud should be made compoundable, the Companies Act, being an economic legislation.



Categorization of Offences under the Companies Act, 2013

Defaults/Offences under the Companies Act, 2013 can be penalized in following manner :



1. Defaults /Offences where penalty is provided in respective sections
2. Defaults/Offences where fine or imprisonment is provided in respective sections.
3. Defaults/Offences where no penal provisions are provided and are subject to general penal provisions u/s 450.





Companies (Amendment) Act, 2019



Companies (Amendment) Act, 2019



On the recommendation of the Expert Committee, the Companies (Amendment) Act, 2019 re-categorised 16 offences from compoundable offences to an in-house adjudication framework.





Companies (Amendment) Bill, 2020



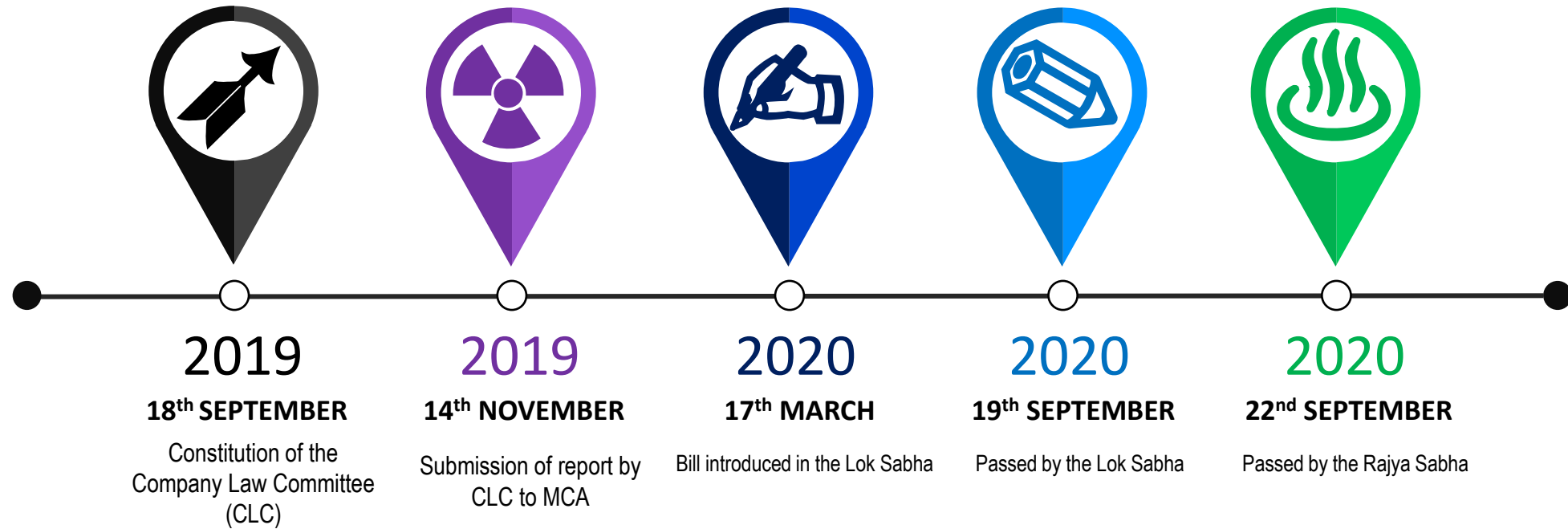
Companies (Amendment) Bill, 2020



A further attempt has been made by the Companies (Amendment) Bill, 2020 to rationalize & decriminalize defaults which can be determined objectively and which otherwise lack any element of fraud or do not involve larger public interest.



Timeline of the Companies (Amendment) Bill, 2020





Reduction in Penalty



Reduction in Penalty

S. No.	Section of the Companies Act, 2013	Offences	Changes
1.	Section 64- Notice to be given to Registrar for alteration of share capital	In case a company fails to file a notice of alteration or increase or redemption, of share capital with the Registrar within 30 days.	<ul style="list-style-type: none">• Reduction in the amount of penalty on company and every officer who is in default from Rs. 1,000 to Rs. 500 for each day during which default continues.• Further, reduction in the maximum amount of penalty on every officer who is in default from Rs. 5 lakh to Rs. 1 lakh.
2.	Section 92- Annual return	In case a company fails to file its annual return within specified period (i.e. 60 days from AGM).	<ul style="list-style-type: none">• Reduction in the amount of penalty on company and every officer who is in default from Rs. 50 thousand to Rs. 10 thousand.• Further, reduction in the maximum amount of penalty from Rs. 5 lakh to Rs. 2 lakh in case of a company and Rs. 50 thousand in case of an officer who is in default.



Reduction in Penalty

S. No.	Section of the Companies Act, 2013	Offences	Changes
3.	Section 117- Resolutions and agreements to be filed	In case any company fails to file the resolution or the agreement with the Registrar within specified time (i.e. 30 days from the date of passing the resolution).	<ul style="list-style-type: none">Reduction in the amount of penalty on company from Rs. 1 lakh to Rs. 10 thousand, in case of continuing failure, each day penalty from Rs. 500 to Rs. 100 and maximum amount of penalty from Rs. 25 lakh to Rs. 2 lakh.Reduction in the amount of penalty on officer who is in default from Rs. 50 thousand to Rs. 10 thousand, in case of continuing failure, each day penalty from Rs. 500 to Rs. 100 and maximum amount of penalty from Rs. 5 lakh to Rs. 50 thousand.
4.	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).	<ul style="list-style-type: none">Reduction in the amount of penalty on company from Rs. 1,000 to Rs. 100 for each day during which the failure continues and maximum amount of penalty from Rs. 10 lakh to Rs. 2 lakh.Reduction in the amount of penalty on MD. CFO/ directors from Rs. 1 lakh to Rs. 10 thousand and maximum amount of penalty from Rs. 5 lakh to Rs. 50 thousand.



Reduction in Penalty

S. No.	Section of the Companies Act, 2013	Offences	Changes
5.	Section 140- Copy of financial statement to be filed with Registrar	In case the auditor fails to file his resignation with the Registrar within the time specified therein (i.e. 30 days from the date of resignation).	Reduction in the maximum amount of penalty on auditor from Rs. 5 lakh to Rs. 2 lakh .
6	Section 165- Number of directorships	In case a person holds office as a director in more than the limit specified therein.	Reduction in the amount of penalty on such person from Rs. 5,000 to Rs. 2,000 for each day after the first during which such violation continues and maximum amount of penalty restricted to Rs. 2 lakh .





Omitting punishment with imprisonment



Omitting punishment with imprisonment

S. No.	Section of the Companies Act, 2013	Offences	Changes
1.	Section 8- Formation of companies with charitable objects, etc.	Default in complying with the requirements relating to formation of companies with charitable objects, etc.	Omit the punishment with imprisonment upto 3 years on director and every officer of the company who is in default
2.	Section 26- Matters to be stated in prospectus	Contravention of provisions relating to issue of a prospectus.	Omit the punishment with imprisonment upto 3 years on every person who is knowingly a party to the issue of such prospectus.
3.	Section 40- Securities to be dealt with in stock exchanges	Default in complying with the provisions in relation to securities to be dealt with in stock exchanges.	Omit the punishment with imprisonment upto 1 year on every officer of the company who is in default.
4.	Section 68- Power of company to purchase its own securities	If a company makes any default in complying with the provisions of this section or any regulation made by SEBI.	Omit the punishment with imprisonment upto 3 years on every officer of the company who is in default.



Omitting punishment with imprisonment

S. No.	Section of the Companies Act, 2013	Offences	Proposed Change
5.	Section 128- Books of account, etc., to be kept by company	If MD, 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.	Omit the punishment with imprisonment upto 1 year on such MD, WTD in charge of finance, CFO or other person charged by the Board of the company.
6.	Section 147- Punishment for contravention	If any of the provisions of sections 139 to 146 (both inclusive) is contravened.	Omit the punishment with imprisonment upto 1 year on every officer of the company who is in default.
7.	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.	Omit the punishment with imprisonment upto 1 year on such person.
8.	Section 242- Powers of Tribunal	Contravention of the order of NCLT relating to alterations in MOA or AOA.	Omit the punishment with imprisonment upto 6 months on every officer of the company who is in default.



Omitting punishment with imprisonment

S. No.	Section of the Companies Act, 2013	Offences	Proposed Change
9.	Section 243- Consequences of termination or modification of certain agreements	Any person or director of the company who knowingly acts as a managing director or other director or manager of a company in contravention of clause (b) of sub-section (1) or sub-section (1A) of this section.	Omit the punishment with imprisonment upto 6 months on such person and director.
10.	Section 347- Disposal of books and papers of company	If any person acts in contravention of any rule framed or an order made under sub-section (3) of this section.	Omit the punishment with imprisonment upto 6 months on such person.
11.	Section 392- Punishment for contravention	If a foreign company contravenes the provisions of Chapter XXII relating to 'Companies Incorporated outside India'.	Omit the punishment with imprisonment upto 6 months on every officer of the foreign company who is in default.





Removal of penal provisions



Removal of penal provisions

S. No.	Section of the Companies Act, 2013	Offences
1.	Section 16- Rectification of name of company	Default in complying with any direction of the Central Government for rectification of name of company.
2.	Section 48- Variation of shareholders' rights	Default in complying with the provisions relating to variation of shareholders' rights.
3.	Section 59- Rectification of register of members	Default in complying with the order of NCLT relating to rectification of register of members.
4.	Section 66- Reduction of share capital	If a company fails to publish the confirmation order of the reduction of share capital by the Tribunal.
5.	Section 71- Debentures	Default in complying with the order of Tribunal relating to redemption of debentures.



Removal of penal provisions

S. No.	Section of the Companies Act, 2013	Offences
6.	Section 302- Dissolution of company by Tribunal	If the Company Liquidator makes a default in forwarding a copy of the order to the Registrar within the period specified therein.
7.	Section 342- Prosecution of delinquent officers and members of company	If a person fails or neglects to give assistance required under this section.
8.	Section 348- Company Liquidator to deposit monies into scheduled bank	If a Company Liquidator makes wilful default in filing the statement referred to in sub-section (1) of this section.
9.	Section 356- Powers of Tribunal to declare dissolution of company void	If the Company Liquidator or the person fails to file the certified copy of the order with the Registrar under this section.

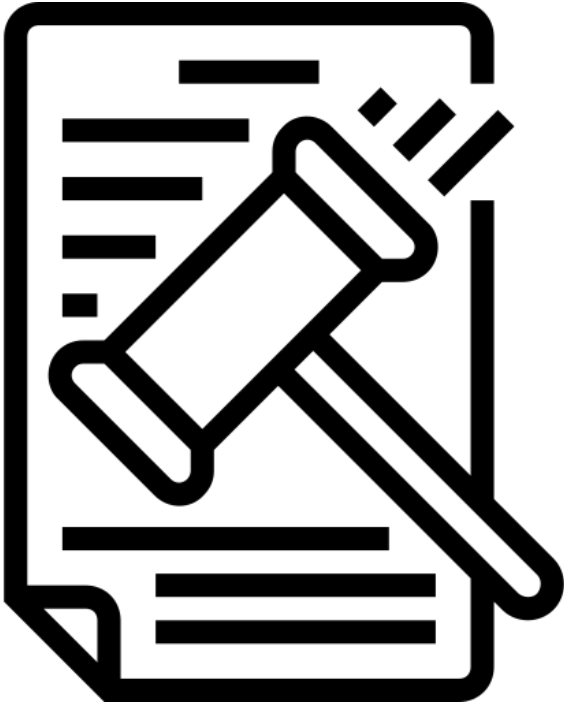




Re-categorizing of offences from compoundable offences to in-house adjudication framework



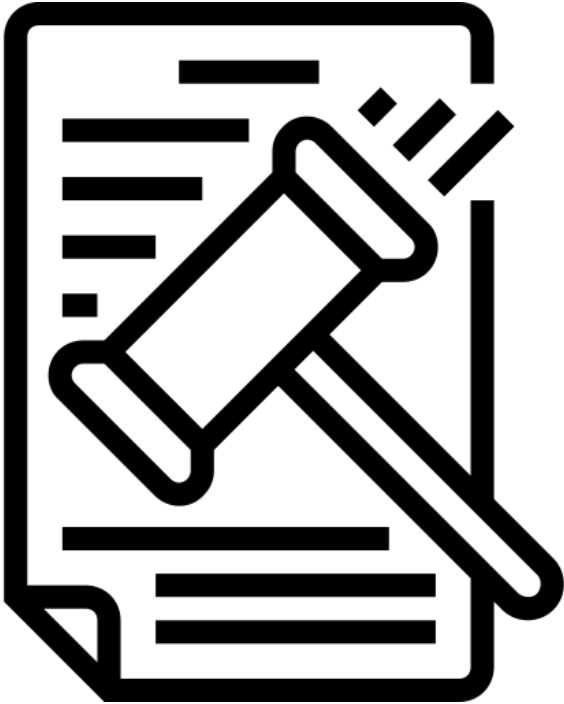
Adjudication of Penalties (section 454)



- ✎ Provides for adjudication of penalties by adjudicating officers (ROC);
- ✎ Certain sections of the Act provide for defaults liable to penalty;
- ✎ Defaults liable to penalty are dealt through in-house adjudication mechanism;



Adjudication of Penalties (section 454)



- ✍ This mechanism is simple, quick and fast and not riddled with Court procedures;
- ✍ The Company Law Expert Committees, based on whose reports, amendments were made in 2019 and now further proposed in Companies (Amendment) Bill, 2020, recommended bringing additional offences under the in-house adjudication framework;
- ✍ The framework helps in de-clogging the Courts and NCLT;
- ✍ The mechanism is in line with Government initiatives towards ease of doing business and promoting corporate compliance.



Procedure for Adjudication under section 454

Issue of show cause notice to company/officer who is in default as to why penalty should not be imposed

Reply within 15 to 30 days as specified in the notice by ROC
(Reply only in electronic mode and Physical appearance if so opined by ROC)

Where the person to whom notice is issued, while submitting electronic reply, has indicated that he wants to make oral representation – himself or through authorized representative.

Order with reasons within:

- a. 30 days where physical presence not required
- b. Within 90 days, where the person appeared.



Procedure for Adjudication under section 454

Copy of order to person concerned, the Central Government and upload on the website

Factors to decide quantum of penalty is Size of the company, Nature of business carried on by the company, Injury to public interest, Nature of default, Repetition of default, amount of disproportionate gain or unfair advantage and amount of loss caused to the investor/creditor.

Cannot be less than the minimum penalty under the section

Must be paid through MCA portal and Order appealable to RD within 60 days.



Adjudication under section 454



~~✍~~ **Whether suo-moto application can be filed for adjudication?**



Adjudication under section 454



 **Whether adjudication mechanism is better than compounding?**



Shifting to in-house adjudication framework

S. No.	Section of the Companies Act, 2013	Offences
1.	Section 56- Transfer and transmission of securities	Where any default is made in complying with the provisions of this section.
2.	Section 86- Punishment for contravention	If any company contravenes any provision of Chapter VI relating to Registration of Charges.
3.	Section 88- Register of members, etc.	If a company does not maintain a register of members or debenture-holders or other security holders or fails to maintain them in accordance with the provisions of this section.
4.	Section 89- Declaration in respect of beneficial interest in any share	If any person fails, to make a declaration as required under this section.
5.		If a company, required to file a return under this section, fails to do so before the expiry of the time specified.
6.	Section 90- Register of significant beneficial owners in a company	If any person fails to make a declaration of SBO as required under this section.
7.		If a company, required to maintain register or file the information or required to take necessary steps under this section, fails to do so or denies inspection as provided therein.



Shifting to in-house adjudication framework

S. No.	Section of the Companies Act, 2013	Offences
8.	Section 92- 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.
9.	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.
10.	Section 124- Unpaid Dividend Account	If a company fails to comply with any of the requirements of this section.
11.	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.
12.	Section 135- Corporate Social Responsibility	If a company fails to spend CSR amount or transfer such amount to a fund specified in Schedule VII or the Unspent CSR Account, as the case may be.
13.	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.



Shifting to in-house adjudication framework

S. No.	Section of the Companies Act, 2013	Offences
14.	Section 172- Punishment	If a company contravenes any of the provisions of Chapter XI (Appointment and Qualifications of Directors) and for which no specific punishment is provided therein.
15.	Section 178- Nomination and Remuneration Committee and Stakeholders Relationship Committee	In case of any contravention of the provisions of section 177 (audit committee) and this section.
16.	Section 184- Disclosure of interest by director	If a director of the company does not disclose the nature of his interest under this section.
17.	Section 187- Investments of company to be held in its own name	If a company contravenes the provisions of this section.
18.	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.
19.	Section 204- Secretarial audit for bigger companies	If a company or any officer of the company or the company secretary in practice, contravenes the provisions of this section.



Shifting to in-house adjudication framework

S. No.	Section of the Companies Act, 2013	Offences
20.	Section 232- Merger and amalgamation of companies	If a transferor company or a transferee company contravenes the provisions of this section.
21.	Section 243- Merger and amalgamation of companies	If a valuer contravenes the provisions of this section or the rules made thereunder.
22.	Section 405- Power of Central Government to direct companies to furnish information or statistics	If any company fails to comply with an order made under this section, or knowingly furnishes any information or statistics which is incorrect or incomplete in any material respect.
23.	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.



Adjudication of penalties

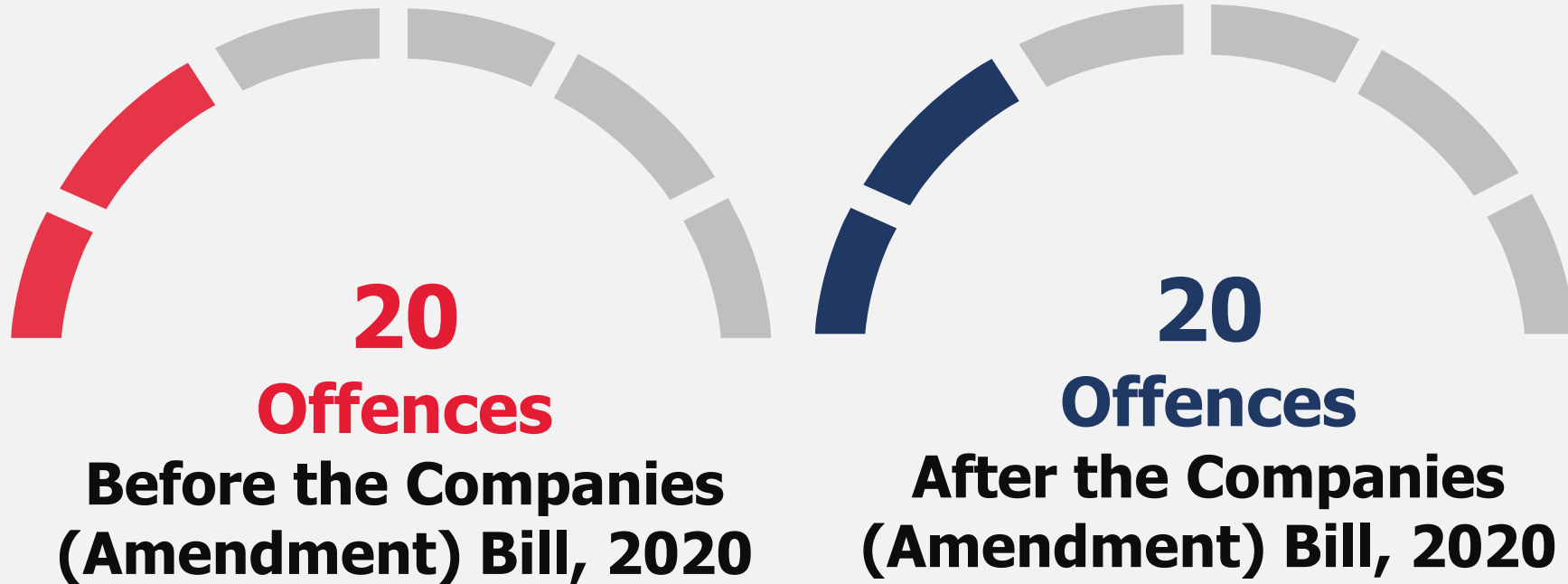


It provides that no monetary penalty shall be imposed by the adjudicating officer, when the default related to non-compliance of ***section 92(4) [Annual Return]*** or ***section 137(1) or (2) [Filing of Financial Statements]*** has been rectified either prior to, or within 30 days of, the issue of the notice by the adjudicating officer.

This is very important amendment and will certainly reduce the chances of any monetary penalty being levied where the default is made good within a defined time.



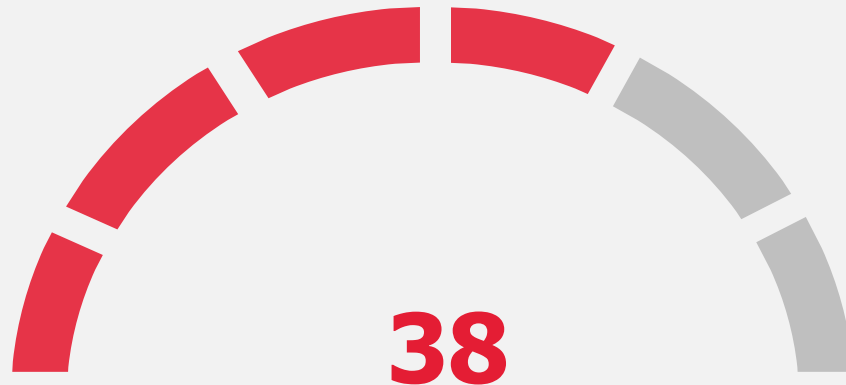
Offences Liable for punishment for fraud under section 447



No Change

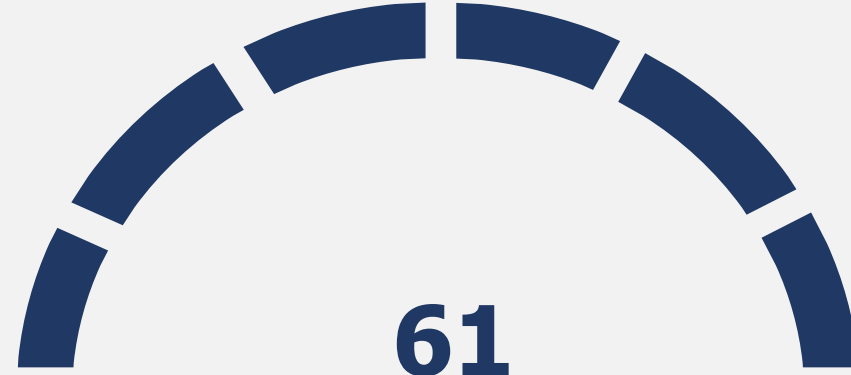


Offences Liable to penalty (Adjudication under section 454: In-house adjudication)



Offences

**Before the Companies
(Amendment) Bill, 2020**

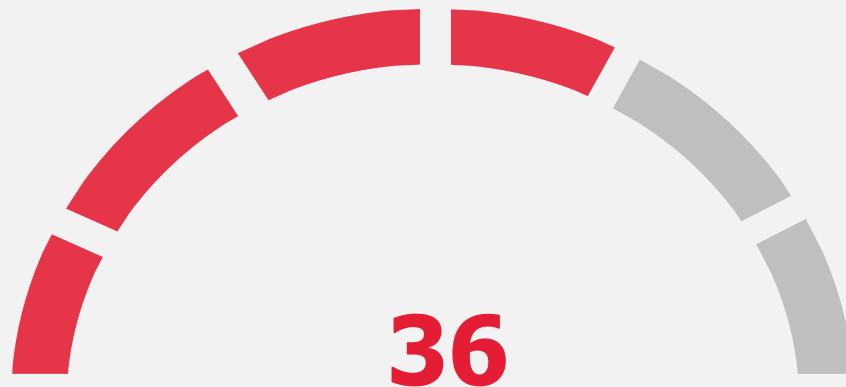


Offences

**After the Companies
(Amendment) Bill, 2020**

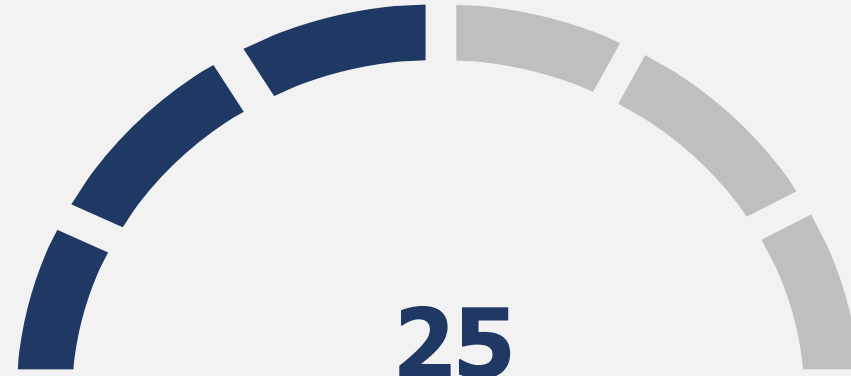


Offences Liable to punishment with Fine only (Compoundable)



Offences

**Before the Companies
(Amendment) Bill, 2020**

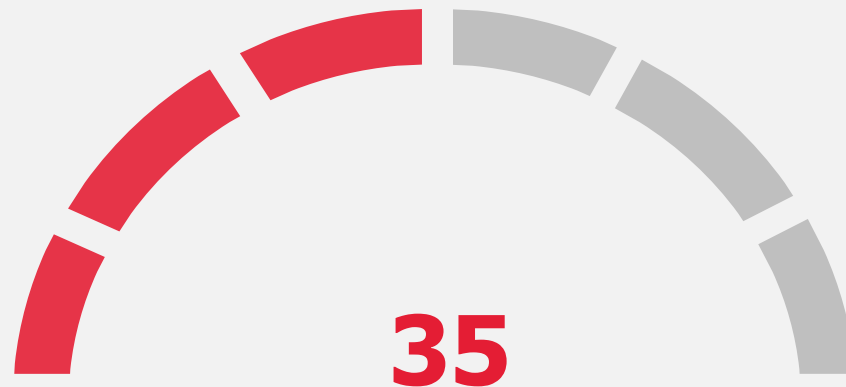


Offences

**After the Companies
(Amendment) Bill, 2020**



Offences Liable to punishment with Imprisonment or with Fine or with both (Compoundable)



Offences

**Before the Companies
(Amendment) Bill, 2020**

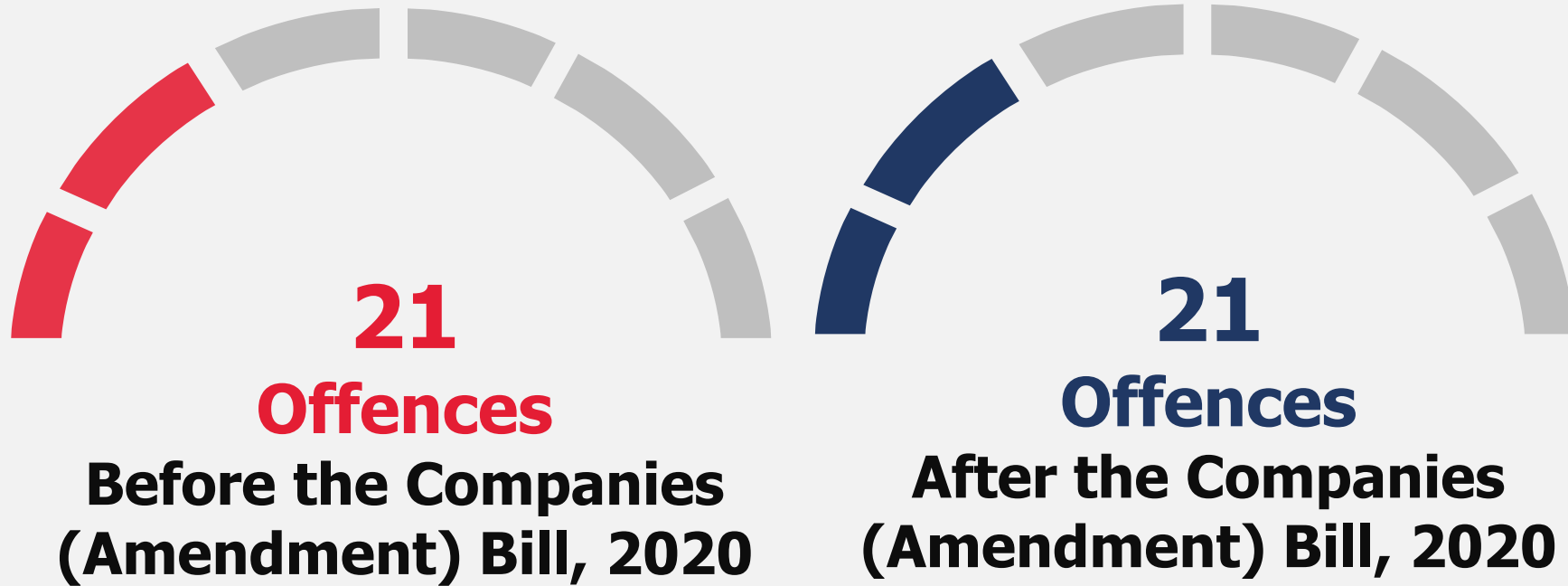


Offences

**After the Companies
(Amendment) Bill, 2020**



Offences Liable to punishment with Imprisonment and with Fine (Non-Compoundable)



No Change





List of offences liable to punishment with Imprisonment and with Fine (Non-Compoundable)



List of offences liable to punishment with Imprisonment and with Fine (Non-Compoundable)

S. No.	Section of the Companies Act, 2013	Offences
1.	57: Punishment for personation of shareholder	Deceitfully personating as an owner of any shares or interest in a company.
2.	58(6): Refusal of registration and appeal against refusal	If a person contravenes the order of the Tribunal under this section.
3.	67(5): Restrictions on purchase by company or giving of loans by it for purchase of its shares	Contravening provisions relating to purchase by company or giving loans by company for purchase of its own shares.
4.	76A – Punishment for contravention of section 73 or section 76	Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of section 73 or section 76 or rules made thereunder or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by NCLT under section 73.
5.	118(12): Minutes of proceedings of general meeting, meeting of Board of Directors and other meeting and resolutions passed by postal ballot	If a person is found guilty of tampering with the minutes of the proceedings of meeting.
6.	127: Punishment for failure to distribute dividends	Failure to distribute dividend within thirty days.



List of offences liable to punishment with Imprisonment and with Fine (Non-Compoundable)

S. No.	Section of the Companies Act, 2013	Offences
7.	147(2) Proviso: Punishment for contravention	If the auditor knowingly contravenes the provisions of sections 139, 143, 144 and 145 with the intention to deceive the company or its shareholders or creditors or tax authorities.
8.	182(4): Prohibitions and restrictions regarding political contributions	Political contribution made in contravention of this section.
9.	186(13): Loan and investment by company	If a company contravenes the provisions of this section.
10.	207(4): Conduct of inspection and inquiry	If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section.
11.	217(6): Procedure, powers, etc., of inspectors	If any director or officer of the company disobeys the direction issued by the Registrar or the inspector under this section.
12.	217(8): Procedure, powers, etc., of inspectors	Failure to provide information, books or papers, etc. to inspector during investigation.
13.	245(7): Class action	Any company which fails to comply with an order passed by the Tribunal under this section.
14.	247(3) Proviso: Valuation by registered valuers	If the valuer has contravened such provisions with the intention to defraud the company or its members.



List of offences liable to punishment with Imprisonment and with Fine (Non-Compoundable)

S. No.	Section of the Companies Act, 2013	Offences
15.	336(1): Offences by officers of companies in liquidation	Offences by officers of companies in liquidation.
16.	336(2): Offences by officers of companies in liquidation	Offences by officers of companies in liquidation covered under sub-Section (viii) of Section (d) of subsection (1).
17.	337: Penalty for frauds by officers	If any person has, by false pretences or by means of any other fraud, induced any person to give credit to the company or with intent to defraud creditors of the company which is subsequently ordered to be wound up by the Tribunal.
18.	338(1): Liability where proper accounts not kept	Failure to keep proper books of account before winding up.
19.	447: Punishment for fraud	Any person who is found to be guilty of fraud involving an amount of at least 10 lakh rupees or 1%, of the turnover of the company, whichever is lower.
20.	449: Punishment for false evidence	Any person intentionally gives false evidence.
21.	452(2): Punishment for wrongful withholding of property	If any officer or employee of the company gets benefit from wrongfully obtained possession of any property including cash of the company and does not refund such benefits to the company.



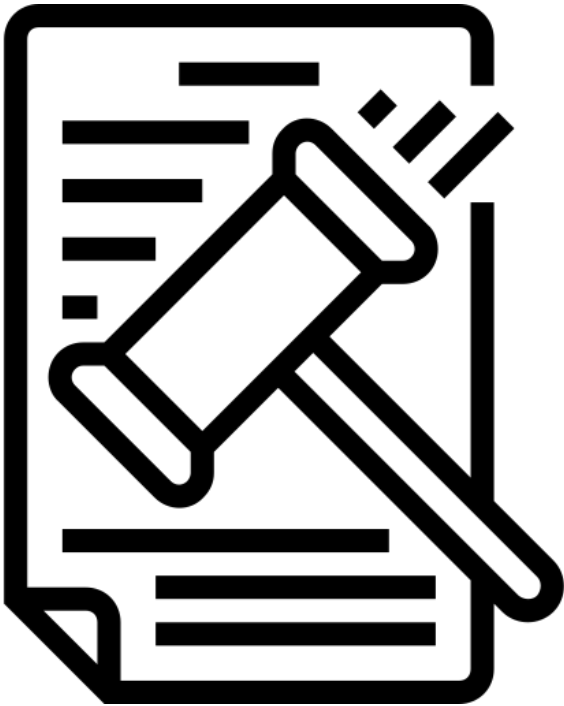
Exclusion of offence relating to Section 143



The reference of ***section 143*** mentioned in ***section 147*** has omitted as punishment for default of ***section 143*** is already provided in ***section 143*** itself.



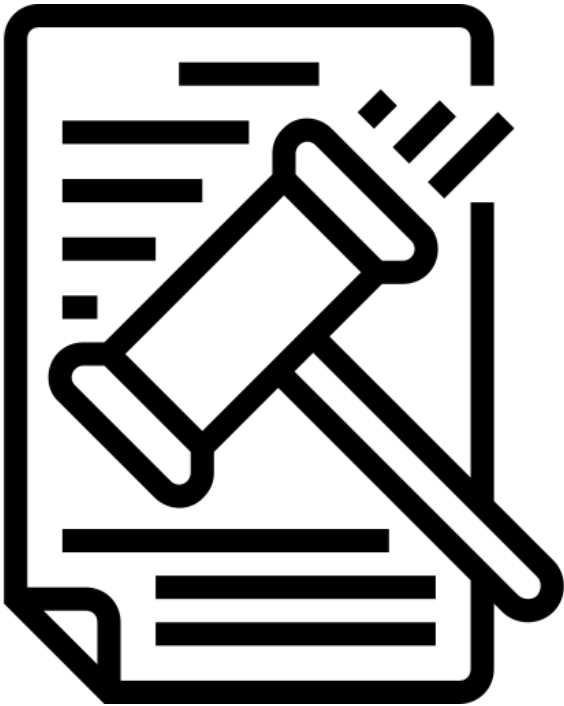
Exclusion of offence from purview of Special Court



It provides that the offence under **section 452** of the Act *i.e. **punishment for wrongful withholding of property***, can't be tried by a Special Court (**Section 435**).



Compounding of Offences



It provides that if any officer or employee of the company fails to comply with the order of NCLT or RD or any other officer authorised by the Central Government, the maximum amount of fine for offence proposed to be compounded shall be twice the amount provided in the corresponding section in which the punishment for such offence is provided (**Section 441**).

Earlier, the officer or employer can also be sentenced to imprisonment.



Lesser penalties for certain companies



- ✍ **Section 446B** has been substituted to provide for payment of lesser monetary penalty by a start-up company, Producer Company, One Person Company or small company on failure to comply with provisions of the Act which attract monetary penalties.
- ✍ The scope is proposed to be extended to cover all types of defaults, where penalty is being levied.
- ✍ Maximum penalty amount is proposed to be capped at Rs 2 Lakhs (for company) and Rs 1 Lakh (officer in default)





Amendments related to 'Ease of Doing Business'



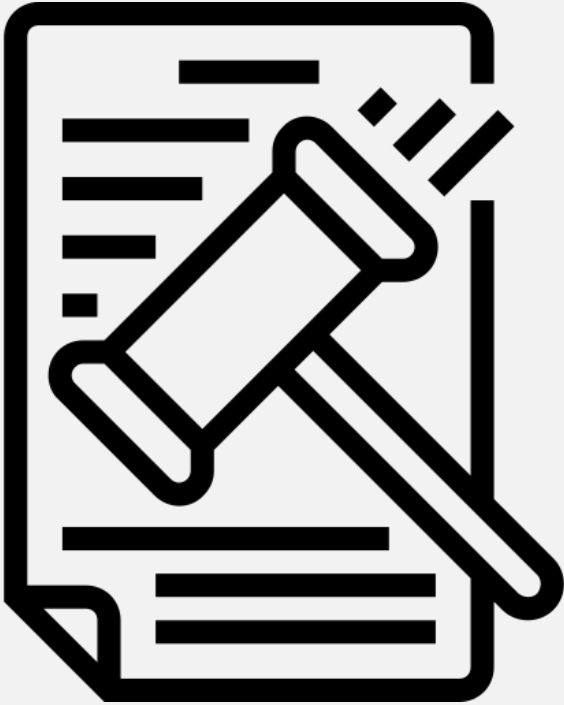
Exclusion of specified securities from the definition of listed company



- ✍ Amendment is proposed in **Section 2(52)**
- ✍ It empowers the Central Government to exclude certain companies, based on listing of certain securities on recognized stock exchanges, as may be provided by rules, in consultation with SEBI from the definition of listed companies.
- ✍ ***It is based on the rationale that companies which are having only NCD listed may have relaxed compliance requirements.***



Direct listing of Indian companies on foreign exchanges



- ✎ Amendment is proposed in **Section 23**
- ✎ It empowers to a class of public companies to list prescribed class of securities on stock exchanges in permissible foreign jurisdictions or such other jurisdictions, as may be provided by rules.
- ✎ It further empowers the Central Government to exempt, by notification, any class or classes of public companies referred to above from any of the provisions of **Chapter III (*Prospectus and Allotment of Securities*)**, **Chapter IV (*Share Capital and Debentures*)**, **Section 89 (*Declaration in respect of beneficial interest in any share*)**, **Section 90 (*Register of significant beneficial owners in a company*)**; and **Section 127 (*Punishment for failure to distribute dividends*)**.

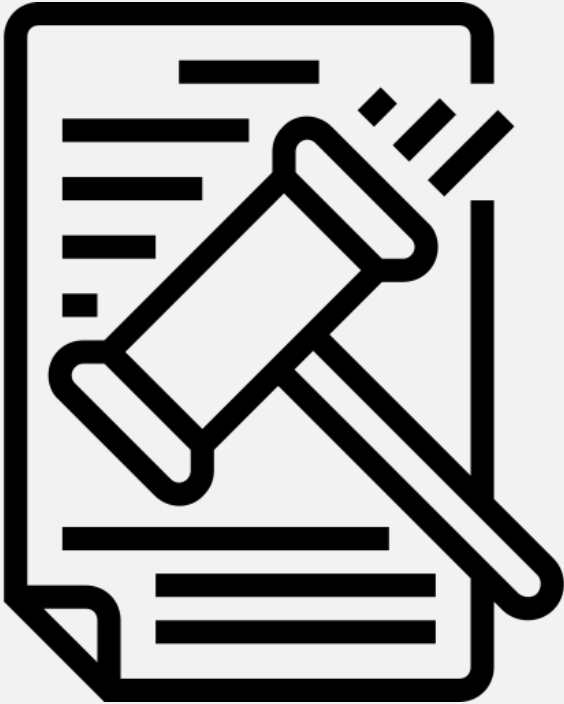




Amendments related to 'Ease of Compliances'



Ease in the Rectification of name of company



- ✎ Amendment is proposed in **Section 16**.
- ✎ Reduction in the time limit of compliance of direction given by the Central Government to change the company name from **6 months** to **3 months**.
- ✎ Further, it empowers to the Central Government to allot a new name to the company, in case of default in complying with the direction instead of imposing punishment for non-compliance for such default.



Lesser timeline in Right Issue



To empower Central Government to prescribe days lesser than 15 for minimum offer period of right issue (**Section 62**).



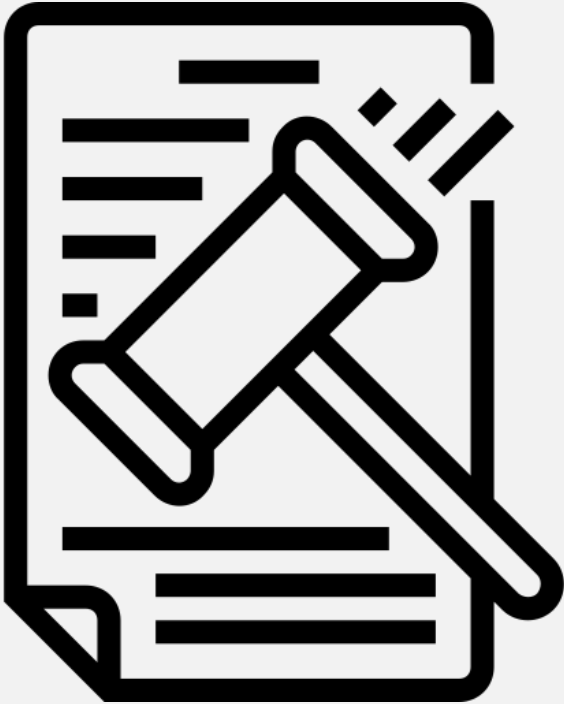
Exemption from declaration in respect of beneficial interest in any share



It empowers to the Central Government to notify a class or classes of persons who shall be unconditionally or subject to such conditions be exempted from complying with section 89.



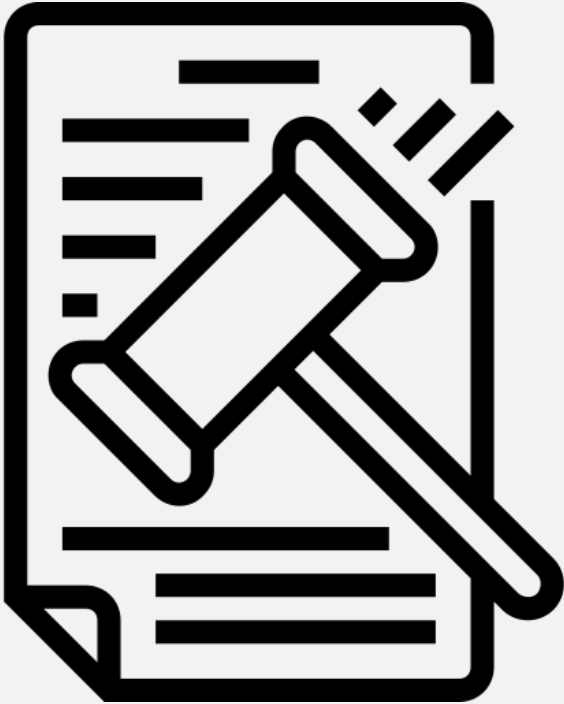
Exemption from filing resolutions



- ✍ Amendment is proposed in **Section 117**.
- ✍ Banking companies are exempted from filing of resolutions passed to grant loans or give guarantees or to provide security in respect of loans in the ordinary course of their business.
- ✍ Now, this exemption is proposed to be extended to registered NBFCs and registered HFCs.



Corporate Social Responsibility



- ✍ Amendments are proposed in **Section 135**.
- ✍ Companies, which spend an amount in excess of 2%, will be allowed to set off excess amount out of their obligation in the succeeding financial years after complying with the prescribed rules.
- ✍ The requirement of constitution of CSR Committee shall not be applicable, in case the amount required to be spent does not exceed Rs. 50 lakh.

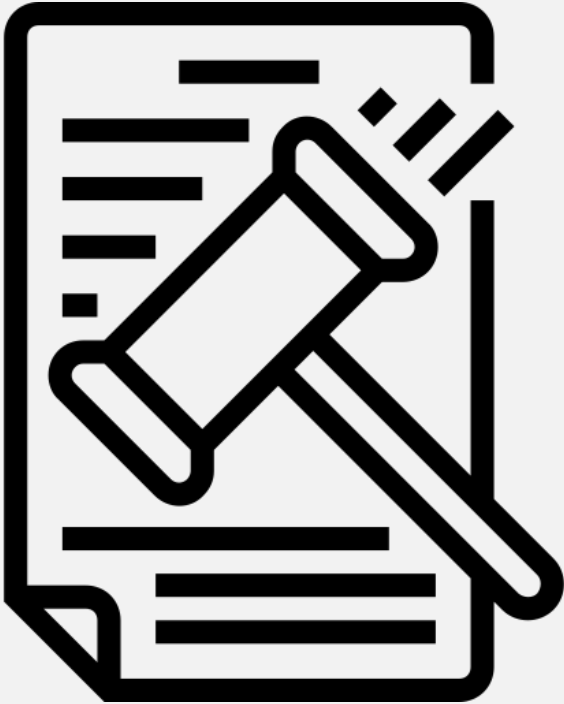




Amendments related to further strengthen the 'Corporate Governance'



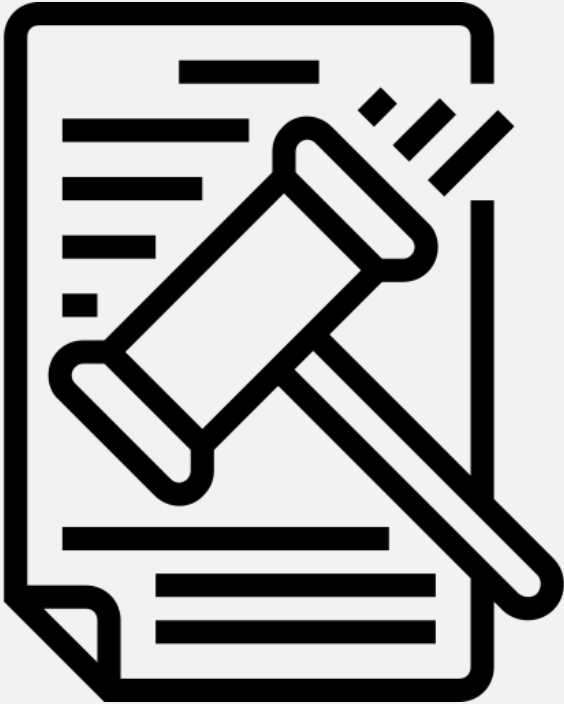
Filing of periodic financial results by unlisted companies



- ✍ Proposed to introduce new **Section 129A**.
- ✍ It empowers to the Central Government to provide by rules such class or classes of unlisted companies to prepare periodical financial results of the company, audit or limited review thereof and its filing with Registrar within 30 days from the end of that period as specified in the rules.



Remuneration to non-executive directors



- ✍ Amendments are proposed in **Sections 149** and **197**.
- ✍ Now, a non-executive director including an independent director a company fails to make profits or makes inadequate profits in a financial year, any non-executive director may receive remuneration, if a company has no profits or inadequate profits in accordance with Schedule V of the Act.
- ✍ Since companies were not able to pay remuneration to Non-Executive Directors specifically in case of loss since Schedule V was only applicable to Executive Directors.





Amendments related to 'Winding Up'



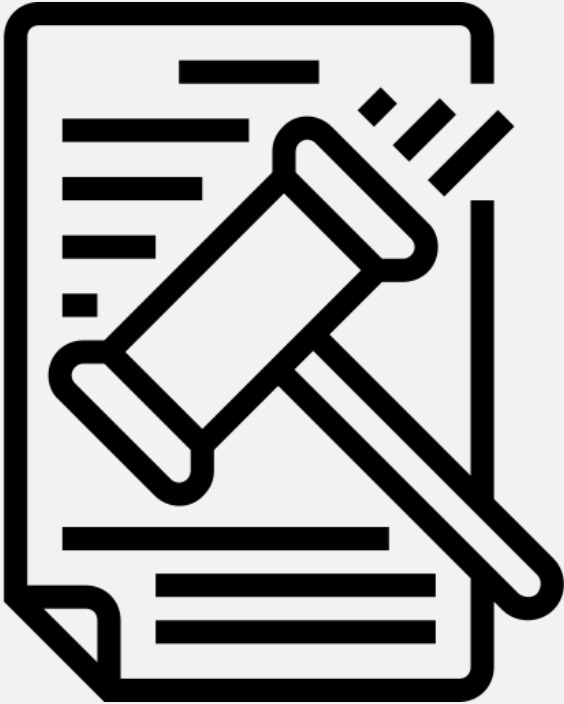
Promoters, directors, etc., to cooperate with Company Liquidator



- ✍ Amendments are proposed in **Section 284**.
- ✍ It provides that when a person required to assist a Company Liquidator does not do so, then the Company Liquidator may make an application to NCLT for necessary directions.
- ✍ Further, it provides that NCLT may direct such person to comply with the directions of the Company Liquidator.



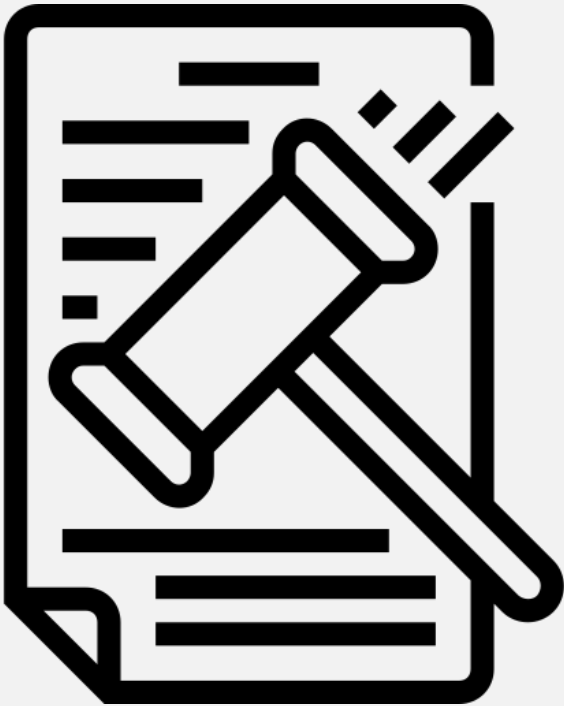
Dissolution of company by Tribunal



It provides that NCLT shall forward a copy of the order of dissolution to the Registrar, and direct the Company Liquidator to also forward such copy to the Registrar, who shall record in the register relating to the company a minute of the dissolution of the company **(Section 302)**.



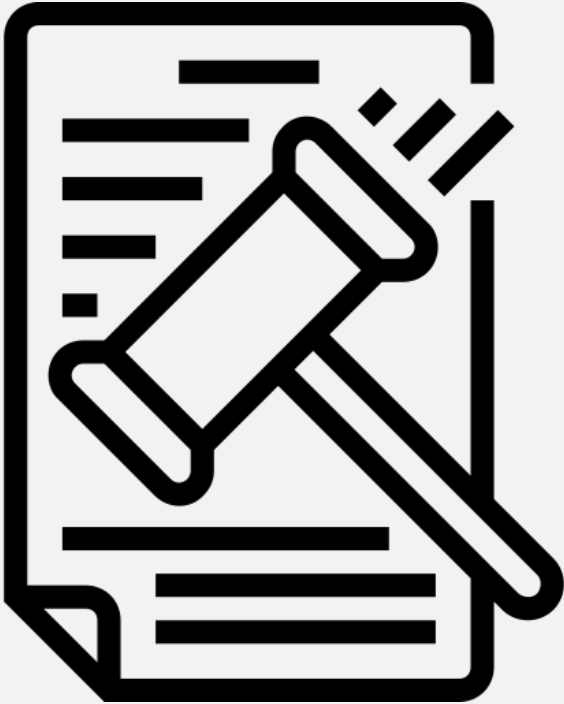
Information as to pending liquidation



It provides that if a Company Liquidator, who is an Insolvency Professional, is in default in complying with the provisions of the section, the default will be a contravention of the IBC, 2016 and the rules and regulations made thereunder (**Section 348**).



Powers of Tribunal to declare dissolution of company void



It provides that NCLT shall forward a copy of the order to the Registrar, and direct the Company Liquidator or the person on whose application such order was made to also file a certified copy of the order with the Registrar within 30 days of the order (**Section 356**).

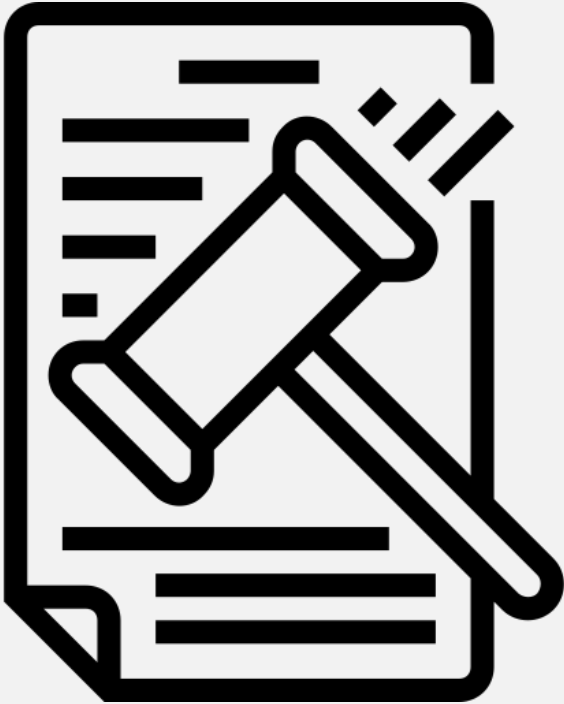




Amendments related to 'Foreign Companies'



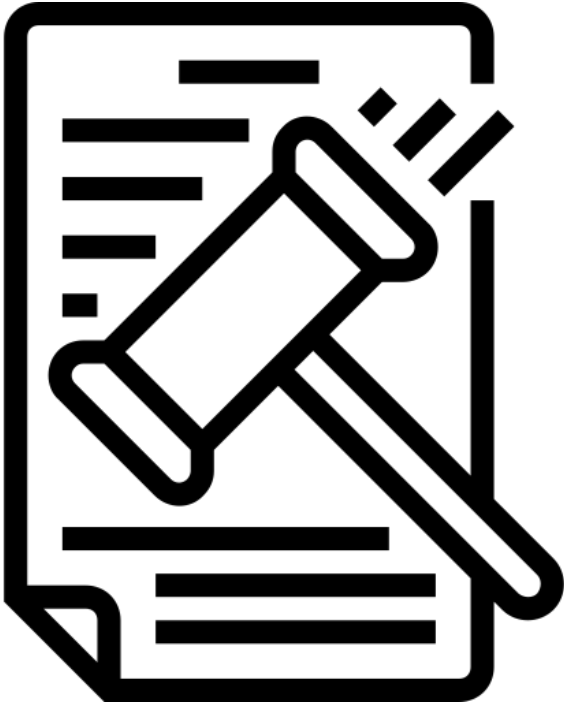
Application of Act to foreign companies



It is proposed to omit the provision which empowers the Central Government to exempt any class of foreign companies from any of the provisions of sections 380 to 386, 392 and 393 by Order published in Official Gazette since a new provision has inserted to provide the Central Government with power related to granting exemption to foreign companies (**Section 379**)



Exemption to foreign companies



- ✍ It is proposed to insert a new **Section 393A**.
- ✍ The provision will empower the Central Government to exempt any class of foreign companies or companies incorporated or to be incorporated outside India, from any of the provisions of ***Chapter XXII (Companies Incorporated outside India)*** of the Act by notification to be laid before both Houses of Parliament.

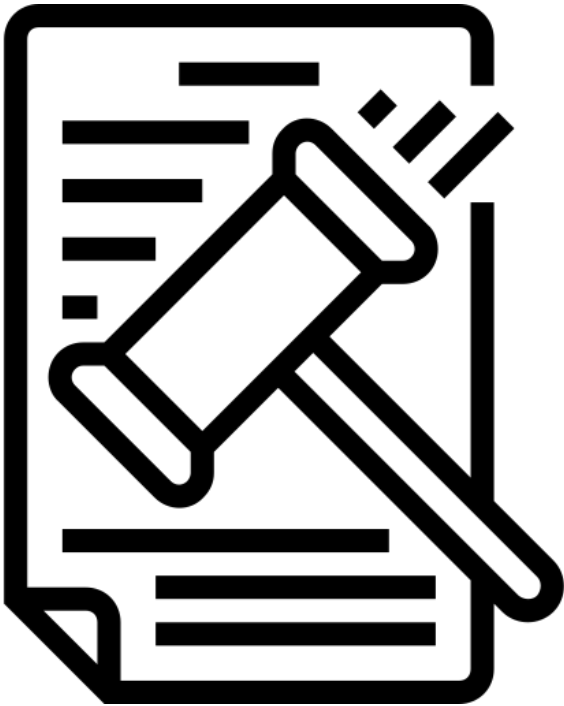




Other Amendments



Default in filing of documents



It empowers to the Central Government to prescribe the higher additional fees for default in submitting, filing, registering or recording of prescribed documents on two or more occasions (Section 403).

Earlier, the minimum additional fees which may be levied shall not be less than twice the additional fees provided in rules.



Insertion of Chapter on Producer Companies



Insertion of a new Chapter as ***Chapter XXIA*** relating to **Producer Companies** on similar lines as provided in the Companies Act, 1956 (Section 378A-378ZU).



Constitution of Benches of NCLAT



Remove the restriction provided on the number of Judicial and Technical members that the Central Government may appoint in NCLAT (**Section 410**)



Constitution of Benches of NCLAT



It empowers to the Central Government to constitute additional NCLAT Benches and related provisions (**Section 418A**).



THANK YOU

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