

IMPORTANT PENALTIES FOR CS EXECUTIVE December 2019 Old & New Syllabus

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CONTRAVENTION	PENALTY PRESCRIBED
MISSTATEMENT IN PROSPECTUS (SECTION 35)	<p><u>Section 447 shall apply:</u> Any person who is found guilty of fraud involving an amount of <u>at least 10 Lakhs or 1% of turnover of company, whichever is lower</u>, shall be punishable with imprisonment not less than 6 months but not more than 10 years and shall also be liable for fine of not less than the amount involved in the mis-statement, but not more than 3 times the amount involved.</p> <p>If the fraud in question involves public interest, the term of imprisonment shall not be less than 3 years.</p> <p>Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to Fifty lakh rupees or with both.</p>
CONTRAVENTION WITH PRIVATE PLACEMENT REGULATIONS (SECTION 42)	<p>If a company makes any default of the provisions of the Companies Act, 2013, the company, its promoters and directors shall be liable for a penalty which may extend to <u>the amount raised through the private placement or two crore rupees, whichever is lower</u>, and the company shall also refund all monies to subscribers within a period of 30 days of the order imposing the penalty.</p>
DEFAULT IN PROVISIONS OF DEPOSITS (SECTION 76A)	<p>1. The Company shall be liable to pay in addition to the deposits & its interest thereon, also liable to pay ₹ 1 Crore or twice the amount of deposit accepted by the company, whichever is lower but which may extend to ₹ 10 Crores.</p> <p>2. Every officer of the Company who is in default shall be punishable with imprisonment which may extend to 7 years and with the fine between ₹ 25 Lakhs but which may extend to ₹ 2 Crores;</p> <p>Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or willfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447.</p>
NON SUBMISSION OF COPY OF PROSPECTUS WITH	<p><u>Against Company:</u> Fine which shall not be less than Rs.50,000/- but which may extend to Rs.3 lacs</p>

ROC	<p><u>Against Officer/Director:</u> Every person who is knowingly a party to the issue of such prospectus shall be punishable with imprisonment for a term which may extend to 3 years or with fine not less than Rs.50,000/- but which may extend to Rs.3 lacs, or with both.</p>
CONTRAVENTION WITH ISSUE OF ABRIDGED PROSPECTUS	Rs. 50,000 for each default
ILLEGAL ASSOCIATION CARRYING ON BUSINESS (SECTION 464)	Penalty Upto Rs. 1,00,000 and liable to refund the amount involved in the transactions without any upper limit.
DEFAULT IN REGISTRATION OF CHARGE (SECTION 86)	<p>If a company makes any default with respect to the registration of charges, penalty shall be levied from ₹ 1 lakh to ₹ 10 Lakhs.</p> <p>Every defaulting officer is punishable with imprisonment for a term not exceeding 6 months or fine which shall not be less than ₹25,000/-, but not exceeding ₹ 1 lakh or both.</p> <p>If any person wilfully furnishes any false or incorrect information or knowingly suppresses any material information, required to be registered in accordance with the provisions of section 77, he shall be liable for action under section 447. (Inserted by Companies Amendment Ordinance 2018 w.e.f. 2nd November 2018)</p>
RETURN OF ALLOTMENT	In case of any default, the company and its officer who is in default shall be liable to a penalty, for each default, of ₹ 1000/- for each day during which such default continues or ₹ 1,00,000/-, whichever is less.
DEFAULT IN HOLDING AGM (SECTION 99)	The Company and every officer of the Company who is in default shall be punishable with fine which may extend to ₹1,00,000/- and in case of continuous default with a further fine which may extent to ₹ 5,000/- for every day during which such default continues.
CONTRAVENTION WITH RULES OF MINUTES (SECTION 118)	<p>If any default is made in complying with the provisions of this section in respect of any meeting, the company shall be liable to a penalty of ₹ 25,000/- and every officer of the company who is in default shall be liable to a penalty of ₹5,000/-.</p> <p>If a person is found guilty of tampering with the minutes of the proceedings of meeting, he shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than ₹ 25,000/- which may extend to ₹ 1,00,000/-.</p>
DEFAULT IN FILING REPORT ON AGM (ONLY FOR LISTED COMPANY)	<p>Default in filing the Report: If the company fails to file the report under sub--section (2) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and</p>

	<p>in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees and</p> <p>every officer of the company who is in default shall be liable to a penalty which shall not be less than twenty-five thousand rupees and in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees;</p> <p>(Substituted by Companies Amendment Ordinance 2018)</p>
NON DISCLOSURE OF INTEREST BY AN INTERESTED DIRECTOR (SECTION 184)	<ul style="list-style-type: none"> • A contract or arrangement entered into by the company without disclosure under sub-section (2) or with participation by a director who is concerned or interested in any way, directly or indirectly, in the contract or arrangement, shall be voidable at the option of the company. • If a director of the company contravenes the provisions of sub-section (1) or subsection (2), such director shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees, or with both.
NON MAINTENANCE OF REGISTER OF RELATED PARTY (SECTION 189)	Every Director shall be liable for a penalty of Rs. 25,000/-
CONTRAVENTION WITH CONTRIBUTIONS (CHARITABLE/ POLITICAL)	<p><u>Company</u>: 5 Times of amount so contributed</p> <p><u>Officer</u>: Imprisonment which may extend to 6 months or Penalty of 5 Times or Both</p>
CONTRAVENTION WITH VACATION OF OFFICE	<u>Director</u> : Imprisonment which may extend to 1 Year or Penalty not less than Rs. 1,00,000 but Not more than Rs. 5,00,000 or both.
CONTRAVENTION WITH NUMBER OF DIRECTORSHIPS (SECTION 165)	If a person accepts an appointment as a director in contravention of sub-section (1), he shall be liable to a penalty of five thousand rupees for each day after the first during which such contravention continues; (Substituted by Companies Amendment Ordinance 2018)
CONTRAVENTION WITH CSR ACTIVITIES (SECTION 135)	<p><u>For Company</u> : If a Company fails to comply with the above provisions, it shall be punishable with fine which shall not be less than Rs.50,000/- which may extend up to Rs.25 lakh.</p> <p><u>For every officer</u> : Every officer who is in default shall be punishable with imprisonment upto 3 years or with fine which shall not be less than Rs.50 thousand which may extend up to Rs.5 lakh or with both.</p>
CONTRAVENTION WITH BOARD REPORT PREPARATION	<p><u>For Company</u>: not less than Rs.50,000/- which may extend upto Rs.25,00,000/-,</p> <p><u>For every officer in default</u>: Imprisonment upto 3 years, or fine from</p>

(SECTION 134)	Rs.50,000/- to Rs.5,00,000/- or Both
CONTRAVENTION IN SECRETARIAL AUDIT (SECTION 204)	Not Less Than Rs. 1,00,000 but which may extend to Rs. 5,00,000.
CONTRAVENTION WITH PROVISION OF LOANS AND INVESTMENT BY COMPANY (SECTION 186)	<u>Company</u> : Fine not less than Rs. 25,000 but which may extend to 5,00,000. <u>Officer</u> : Imprisonment which may extend to 2 Years AND Fine not less than Rs. 25,000 but which may extend to 5,00,000.
DEFAULT IN MAINTENANCE OF BOOKS OF ACCOUNTS	<u>Company & Officer</u> : Imprisonment of upto 1 Year or Fine not less than 50,000 which may extend to Rs. 5,00,000 or both.
FAILURE TO DISTRIBUTE DIVIDEND AFTER DECLARATION (SECTION 127)	<u>Director</u> : Imprisonment of Upto 2 Years or Fine not less than Rs. 1,000 per day of default AND <u>Company</u> : Simple Interest @ 18% p.a till the default continues.
ISSUE OF SHARES AT DISCOUNT (SECTION 53)	Where any company fails to comply with the provisions of this section, such company and every officer who is in default shall be liable to a penalty which may extend to an amount equal to the amount raised through the issue of shares at a discount or five lakh rupees, whichever is less, and the company shall also be liable to refund all monies received with interest at the rate of twelve per cent. per annum from the date of issue of such shares to the persons to whom such shares have been issued; (Substituted by Companies Amendment Ordinance 2018 w.e.f. 2 nd November 2018)
DEFAULT WITH PROVISIONS RELATING TO STAKEHOLDERS RELATIONSHIP COMMITTEE (SECTION 178)	For Company: Minimum Fine – Rs.1,00,000/- Maximum Fine – Rs.5,00,000/-. For Every officer who is in default: Imprisonment – upto one year or Minimum Fine – Rs.25,000/-, Maximum Fine – Rs.1,00,000/- or both. <i>Provided that inability to resolve or consider any grievance by the Stakeholders Relationship Committee in good faith shall not constitute a contravention of this section.</i>
GENERAL PENALTY (SECTION 450)	In case no penalty is specified in case of any contravention, Fine up to ₹10,000 and further fine up to ₹1,000 for each day of default in case of contravention continues can be levied.
DEFAULT IN FILING RESOLUTIONS & AGREEMENTS WITH ROC	If any company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with further penalty of five hundred rupees for each day after the

(SECTION 117)	<p>first during which such failure continues, subject to a maximum of twenty-five lakh rupees and every officer of the company who is in default including liquidator of the company, if any, shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.</p> <p>(Substituted by Companies Amendment Ordinance 2018)</p>
CONTRAVENTION WITH SECTION 134 FINANCIAL STATEMENTS, BOARD REPORT REQUIREMENTS	<p>If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.</p>
DEFAULT IN FILING FINANCIAL STATEMENTS WITH ROC (SECTION 137)	<p>Penal Provisions: If company fails to comply with the requirement of submission of financial statement before ROC, the company shall be punishable with Penalty of ₹ 1000/- per day till the continuance of default subject to maximum of ₹ 10 Lakhs.</p> <p>The managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be liable to a penalty of one lakh rupees and in case of continuing failure, with further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees;</p> <p>(Amended by Companies Amendment Ordinance 2018)</p>
CONTRAVENTION BY AUDITOR OR COMPANIES WITH AUDIT PROVISIONS (SECTION 147)	<p>(1) If any of the provisions of sections 139 to 146 (both inclusive) is contravened, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both.</p> <p>(2) If an auditor of a company contravenes any of the provisions of section 139, section 143, section 144 or section 145, the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees or four times the remuneration of the auditor, whichever is less;</p> <p>Provided that if an auditor has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable</p> <p>with imprisonment for a term which may extend to one year and with fine</p>

	<p>which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees or eight times the remuneration of the auditor, whichever is less;</p> <p>(3) Where an auditor has been convicted under sub-section (2), he shall be liable to— (i) refund the remuneration received by him to the company; and (ii) pay for damages to the company, statutory bodies or authorities or to the members or Creditors of company for loss arising out of incorrect or misleading statements of particulars made in his audit report.</p>
DEFAULT WITH THE PROVISIONS RELATED TO DIN (SECTION 159)	<p>If any individual or director of a company makes any default in complying with any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be liable to a penalty which may extend to fifty thousand rupees and where the default is a continuing one, with a further penalty which may extend to five hundred rupees for each day after the first during which such default continues. (Section 159) (Substituted by Companies Amendment Ordinance 2018)</p>
DEFAULT WITH SECTION 197 RELATING TO MANAGERIAL REMUNERATION	<p>If any person makes any default in complying with the provisions of this section, he shall be liable to a penalty of one lakh rupees and where any default has been made by a company, the company shall be liable to a penalty of five lakh rupees. (Substituted by Companies Amendment act, 2017 w.e.f 12th September 2018)</p>
NON VACATION OF OFFICE BY DISQUALIFIED DIRECTOR AS PER SECTION 167	<p>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 subsection (1), he shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.</p>
PENALTY FOR REPEATED DEFAULT (SECTION 454A)	<p>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 three years from the date of order imposing such penalty passed by the adjudicating officer or the Regional Director, as the case may be,</p> <p>it or he shall be liable for the second or subsequent defaults for an amount equal to twice the amount of penalty provided for such default under the relevant provisions of this Act.</p>
VIOLATION OF SECTION 185 LOAN TO DIRECTOR	<p>If any loan is advanced or a guarantee or security is given or provided or utilised in contravention of the provisions of this section,—</p> <p>(i) the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees;</p> <p>(ii) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees; and</p>

	(iii) the director or the other person to whom any loan is advanced or guarantee or security is given or provided in connection with any loan taken by him or the other person, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees, or with both;
DEFAULT IN BUY BACK OF SHARES (SECTION 68)	<p>If a company makes any default in complying with the provisions of this section or any regulation made by the Securities and Exchange Board, for the purposes of clause (f) of sub-section (2),</p> <p>The company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees and</p> <p>Every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both.</p>
NON COMPLIANCE WITH SECTION 129 FINANCIAL STATEMENTS	<p>If a company contravenes the provisions of this section, the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person charged by the Board with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be punishable with</p> <p>imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.</p>
NON COMPLIANCE WITH SECTION 128 BOOKS OF ACCOUNTS TO BE KEPT BY COMPANY	<p>If the managing director, the whole-time director in charge of finance, the Chief Financial Officer 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 managing director, whole-time director in charge of finance, Chief Financial officer or such other person of the company shall be punishable with</p> <p>Imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.</p>
IF COMPANY DOES NOT ALLOW MEMBER OR TRUSTEE TO INSPECT FINANCIAL STATEMENTS	<p>If any default is made in complying with the provisions of this section, the company shall be liable to a penalty of –</p> <p>(i) twenty-five thousand rupees and</p> <p>(ii) every officer of the company who is in default shall be liable to a penalty of five thousand rupees.</p>



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