

Recovery of Amounts:

- If any person fails to pay the penalty imposed under the Act, then the Recovery Officer shall issue a 'Recovery Certificate' & shall be recovered by 1 or more of the following modes:
Attachment and Sale of Person's Movable property; Attachment of person's bank A/c; Attachment and sale of Person's Immovable property; Arrest of person and his detention in prison; Appointing a receiver to manage the properties.

All sums realised as penalties, shall be credited to Consolidated Fund of India.

Offences by Company:

If person committing an offence → is a Company, then Person - in - Charge = Guilty
Exception: done without his knowledge or If exercised due diligence to prevent offence.

Title of dividends:

It shall be lawful for security holder, whose name appears on the books of company to receive and retain dividend declared by the company for any year; Except: the said security has been transferred by him for consideration & transferee who claims the dividend from transferor has lodged security/ other documents of transfer for being registered within 15 days of date on which dividend became due.

15 days Period Extension in these cases:

- Death of transferee
- Loss of transfer deed by theft or any reason beyond his control
- Delay in lodging due to causes connected with post.

(Same Provision applicable for Collective Investment Scheme & Mutual Funds)

For Appeals & Imp Penalties:

Refer Summary Tables

6. Disclosure of Events or Information:

All material disclosures should be made, as given in Regulation 30.

Eg: Basis of Related Party Transaction, Disclosure of Accounting Treatment, Disclosure of Risk and Risk management, Proceeds from IPO, Remuneration of directors, Management discussion and analysis report of Board, Business responsibility statement, Information about company on web.

7. CEO/CFO certification:

CEO and CFO of company shall certify to Board that, they have reviewed the FS and Cash flow statements and to the best of their knowledge and belief these statements are true.

8. Report on Corporate Governance to Members:

Regarding composition of Board, Attendance of directors, Committees formed etc.

Summary of Different types of Committees:

Type of Committee	No. of members	Proportion of ID	Meetings	Quorum of meeting
Audit Committee	≥ 3	$2/3^{\text{rd}}$ of Members	Atleast 4 meetings with maximum gap of 120 days	2 members or $1/3^{\text{rd}}$ of members of AC, whichever is more, with atleast 2 ID.
NRC	≥ 3	$1/2$ of Members should be ID. (But all should be Non Executive Directors)	Atleast 1	2 members or $1/3^{\text{rd}}$ of members of AC, whichever is more, with atleast 1 ID.
SRC	≥ 3	Atleast 1	Atleast 1	Not specified
RMC	Not specified	Not specified	Atleast 1	Not specified

SUMMARY of IMP PENALTIES

Section No.	Contravention	Penalty
11	Authorised Person contravenes any RBI direction or fails to file any return as directed by RBI	- Upto Rs. 10000, - If continuing offence, then additional penalty upto Rs. 2000 per day
13(A) & 13(B)	Of any provision or Act, or any rule, regulation, etc.	- Upto 3 times, the sum involved, if it is quantifiable - If not, then upto Rs. 200000 - If continuing, then further penalty upto Rs. 5000/day after 1 st day
14	Failure to pay penalty as above: - If demand exceeds Rs. 1 crore - In any other case	Civil Imprisonment - upto 3 years - upto 6 months
14(C)	Any person is found to have acquired any force, foreign security or immovable property, situated outside India, of any value, exceeding the limit prescribed	Additional Punishment imprisonment upto 5 years and with fine

SUMMARY of IMP - TIME PERIOD FOR APPEALS etc

Section No.	Obligation	Time-Limit
15	Compounding of Contravention u/s 13	Within 180 days of receipt of application
16	Complaint u/s 16 to be dealt by Adm	Within 1 year of receipt of complaint
17	Appeal to Special Director (Appeals)	Within 45 days of receipt of order (Condonation allowed)
19	Appeal to Appellate Tribunal	Within 45 days of receipt of order
19(S)	Appeal to be dealt with by Appellate Tribunal	Will try to dispose of the appeal within 180 days of receipt of appeal (If delayed, record reasons for delay)
35	Appeal to High Court (On question of Law)	Within 60 days of communication of orders/decision (further extension by max. 60 days)

Super - Quick Revision of IMP Provisions of FEMA:

<p><u>Extent & Applicability:</u> Extends to whole of India. It applies to all branches/offices outside India owned/controlled by a PRI and it applies to any contravention committed outside India by any person to whom this Act applies.</p>	<p><u>Current Account Transactions:</u> <u>Schedule I: Prohibited:</u> (i) Remittance out of lottery winnings (ii) Remittance of income from racing/riding etc. or any other hobby (iii) Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, etc. (iv) Payment of commission on exports made towards equity investment in Joint Venture/Wholly owned subsidiaries abroad of Indian Companies. (v) Remittance of Dividend by a company to whom the requirement of dividend balancing applies (vi) Payment of Export commission under Rupee State Credit Route (However commission upto 10% of invoice value is allowed on export of tea and tobacco) (vii) Payment related to Call Back services of telephones (viii) Remittances of Interest Income on funds held in Non-Resident Special Rupee Scheme A/c.</p>	<p><u>Schedule III:</u> <u>1. For Individual: (Under LRS):</u> (i) Private visit to any country (except Nepal/Bhutan); (ii) Gift for donation; (iii) Going abroad for employment; (iv) Emigration; (v) Maintenance of close relatives abroad; (vi) Travel for business/conference/specialised training or for meeting expenses of medical treatment or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/check up; (vii) Expenses in connection with medical treatment abroad; (viii) Studies abroad; (ix) Any other Current account transaction.</p> <p><u>2. For Other than individual:</u> Donations; Commission to agents abroad; Remittances for project; Remittance for reimbursement of pre-incorporation expenses.</p>
<p><u>Capital Account Transaction:</u> Means a transaction which alters: - Assets or Liabilities including contingent liabilities outside India of PRI or - Assets or Liabilities in India of PROI.</p>		<p><u>Capital Account Transactions:</u> <u>1. No Restrictions:</u> (a) Amortisation of loan (b) Depreciation of direct investments in ordinary course of business.</p> <p><u>2. Prohibited (by PROI):</u> Chit fund business; in Agricultural/Plantation Activities; Real Estate Business or Construction of Farm Houses; in Nidhi Company; in trading in TDR</p>
<p><u>Current Account Transactions:</u> Other than a capital account transaction.</p> <p><u>Person Resident in India:</u> Means: (i) Person residing in India for > 182 days during preceding FY. But excludes (A) and (B): (A): A person who has gone out of India or who stays outside India: For employment outside India or; For carrying on business/vocation outside India or; For any other purpose indicating his intention to stay outside India for UNCERTAIN period. (B): A person who has come to or stays in India, otherwise than: <u>For same 3 reasons as mentioned above</u> (ii) Any person or body corporate regd/ incorp in India. (iii) An office, branch, agency in India owned/controlled by PROI (iv) An office, branch or agency outside India owned/controlled by a PRI.</p>	<p><u>Schedule II: CG Approval:</u> Cultural Tour; Advertisement; Freight Vessel; Ocean Transport; Agent; Detention Charges; Transponders; Prize Money; Protection.</p>	

Export Provisions:Declaration:

Every exporter of goods/software, to any place, outside India, other than Nepal and Bhutan, shall furnish to specified authority, a declaration and supported by such evidence, containing true and correct details of amount of:

- full export value of goods/software or expected value if not ascertainable at the time of export.

- In case of export of services, to which none of the declaration forms are applicable, the exporter may export without declaration, but shall be liable to realise the amount and repatriate the same to India. Realizations of export proceeds must be duly declared.

Period within which export value of to be realised:

Within 9 months from date of export or within such period as may be specified by the RBI, in consultation with the CG, from time to time.

If sent to warehouse, then 15 months from date of shipment instead of 9 months.

Advance payment against Exports:

- (i) Shipment of goods be made within 1 year from such receipt.
- (ii) Rate of interest payable shall be maximum LIBOR + 100 basis points and
- (iii) Documents covering the shipment are routed through authorised dealer through whom advance payment is received.

Authorised Person:

RBI may on an application, authorise any person, to be known as authorised person to deal in forex/foreign securities. Authorisation may be revoked, if RBI is satisfied that:

- (a) it is necessary to do so in public interest or
 - (b) authorised persons has failed to comply with any conditions or provisions
- (only after giving ROBH)

Presumption as to DocumentsIn Certain Cases:

If any document is found/produced/seized, then Court/AA shall presume that signature/handwriting on that document is of the same person (unless proved to contrary)

Offences by Company:

If person committing an offence
 → is a Company, then Person - in - Charge = Guilty
 Exception: done without his knowledge or If exercised due diligence to prevent offence.

Suspension of Act:

If CG is satisfied that circumstances has arisen that any permission granted/ restriction imposed by act should cease to be granted/ imposed or it is necessary to do so in public interest, then CG may do so for a specific period or indefinitely.

Death or Insolvency In Certain Cases:

Nothing shall abate. But will continue against legal representative or official receiver

Bar Legal Proceedings:

No suit or legal proceedings shall lie against the CG/RBI/ Officer for anything done in good faith under FEMA.

Appeals & Penalties

Refer Summary Chart

For ODI / ECB / Import:

Advisable to refer Full Provisions as they were newly inserted.

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corporate has been dissolves/ceased to exist under law of the country under which it was incorporated.

Rule 12 of Companies (Regn. of Foreign Cos.) Rules, 2014: (Refer Q11)

If any person/(s) trade or carry on business in any manner under any name or title or description as a foreign co registered under the Act/Rules, that person or each of those persons shall unless duly registered as foreign co. under the Act & Rules, shall be liable for investigation u/s 210 of the Act & action consequent upon that investigation shall be taken against that person.

Summary of IMP Penalties:

Section No.	Particulars	Penalties
392	If any person contravenes the provisions of this Chapter,	FC shall be punishable with fine: Rs. 1,00,000 - Rs. 3,00,000 & in case of continuing offence - an additional fine upto Rs. 50,000/day & Every defaulting officer of FC: Fine: Rs. 25,000 - Rs 5,00,000

Summary of IMP Forms:

Form No.	Purpose
FC - 1	Application for Registering FC in India
FC - 2	Alteration in any Documents
FC - 3	List of all places of business established in India as on the B/S date
FC - 4	Annual Return

Super - Quick Revision of IMP Provisions of Companies Incorporated Outside India:

<p><u>Definition of a foreign company:</u> Means any company or body corporate incorporated outside India which - (a) Has a place of business in India, Whether by itself or through an agent, physically or through electronic mode. AND (b) Conducts any business activity in India in any other manner.</p>	<p>(ctd) (f) Any dates of opening / closing place of business in India earlier. (g) Declaration that none of the directors are convicted / debarred from formation of Companies in India / abroad (h) Other information, as required. - Above information must be delivered to ROC within 30 days of establishment of POB in India in Form FC-1 - These documents shall be delivered to ROC having jurisdiction over <u>New Delhi</u>. - If there is any alteration, in the documents submitted above, it shall be delivered to ROC within 30 days of such alteration in Form FC-2 + Fees.</p>	<p><u>Preparation of Financial Statement (FS):</u> FS of Indian Business Operation shall be in Sch III. All such documents relating to CFS of parent foreign company as submitted by company in its country of incorporation; shall also be filed. Company shall also file along with FS a statement w.r.t. related party transactions, repatriation of profits & transfer of funds. Documents shall be filed within 6 months of close of FY. (extension by max 3 months) Provisions of Companies Act (Sec.128 - 148) & Rules shall also apply to FC.</p>
<p><u>Documents to be delivered to ROC by FC:</u> (a) Certified copy of Charter/Statute or MOA/AOA in English (if not in English, a certified translation in English, needs to be submitted) (b) Full address of Principal / Registered office (c) Full address of FC office in India (d) Name & Address of person resident in India (i.e. authorised to accept documents (notices in India) (e) List of directors/ secretary of company & their particulars. (ctd)</p>	<p><u>Accounts of FC:</u> Every FC shall prepare & file with ROC a B/S & P/L If any document is not in English language, then a certified translation copy must be annexed. Every FC shall prepare a list of all places of business established in India in Form FC-3 as on the B/S date & must be filed with ROC along with B/S & P/L.</p>	<p><u>Service of documents on FC:</u> Shall be deemed to be sufficiently served if: - addressed to any person whose name & address was delivered to ROC u/s 380 (authorised person in India) & - left at / by post, to address which was delivered to ROC or by electronic mode.</p>

Dating of prospectus & particulars to be contained therein:

This Section is applicable w.r.t any prospectus issued by company incorporated outside India or to be incorporated outside India.

- No person shall issue/circulate/distribute in India, any prospectus to subscribe for securities of a company incorporated outside India, unless it is dated & signed.

- Shall contain the details, namely:

law under which company was incorporated; Indian address where documents can be inspected; Date & Country of Incorporation; Address of Principle office in India, if any; Instrument defining the constitution of company.

- It should also contain the matters as specified u/s 26.

- Application form will be accompanied with the prospectus.

Provisions as to expert's consent & allotment:

No person shall issue/circulate/distribute in India, any prospectus if:

Expert has not given his written consent; Expert has withdrawn his consent before registration of prospectus; Prospectus does not contain a statement that expert has given his consent & has not withdrawn.

Expert Statement is deemed to be included in the prospectus, if it is contained in any report etc or a reference to the same is given.

Concept of IDR:

Foreign co. wants to raise funds from India. Therefore it issues its shares to Depository (in India). Such depository keeps the shares of Foreign co. with itself & issues IDR (Denominated in Rs.) to Indian investors. Such investors' money is invested in IDR, which is ultimately passed on to the foreign co.

Registration of prospectus:

Before issue/ distribution/ circulation of prospectus, FC shall:

Deliver to ROC - certified copy of prospectus; States on the face of it - that is has been delivered; Expert's consent (as u/s 388) is attached to prospectus etc

- Copy of prospectus shall be certified by Chairperson of company & 2 other directors of co.

Application of section 34-36 & Chapter XX

Provisions of Section 34-36 shall apply to:

- Issue of prospectus by company incorporated outside India u/s 389 &

- Issue of IDR by a foreign company 391 (1)

Subject to Section 376, the provisions of Chapter XX i.e. Winding up shall apply for closure of a place of business of a FC in India, as if it were a company incorporated in India, in case such FC has raised monies through offer or issue of securities, which have not been repaid or redeemed 391 (2)

Summary of IMP Time Periods:

Section. No	Particulars	Time Period
420	Rectification of NCLT's Order due to Mistake Apparent from Record	May be rectified within 2 years by Tribunal
421	Appeal Against NCLT's Order before NCLAT	Must be filed within 45 days. (Extension by Max 45 days, if sufficient cause)
422	Disposal of Appeal by NCLT/NCLAT	Within 3 months. (Extension by Max 90 days)
423	Appeal against NCLAT's Order before Supreme Court on Question of Law	Must be filed within 60 days. (Extension by Max 60 days, if sufficient cause)

Super - Quick Revision of IMP Provisions of NCLT / NCLAT:

<p>Definition: Chairperson: Chairperson of NCLAT President: President of NCLT</p>	<p><u>Expeditious Disposal By Tribunal / Appellate Tribunal:</u> Matter shall be disposed of by NCLT / NCLAT, within 3 months from the date of filing of appeal. (Extension of max 90days)</p>	<p><u>Protection of action taken in good faith:</u> No suit, prosecution or legal proceeding shall be taken against Tribunal / President / Chairperson, if any act that caused damage was done in good faith.</p>
<p><u>Orders of Tribunal:</u> - After hearing & giving ROBH, Tribunal may pass such orders, as it thinks fit. - Such orders may be rectified within 2 years by Tribunal due to any mistake apparent from record, if the mistake is brought to its notice by the parties.</p>	<p><u>Appeal to Supreme Court:</u> If any party is aggrieved by order passed by NCLAT, it may prefer an appeal before Supreme Court within 60 days of date of receipt of NCLAT's order. Appeal can be filed, only for matters involving Question of Law. Delay in filing appeal beyond 60 days is allowed, if sufficient cause; for a period not exceeding 60 days.</p>	<p><u>Civil court not to have jurisdiction</u> No civil court shall have jurisdiction in relation to suit / proceeding for any matter, which is pending before NCLT / NCLAT.</p>
<p><u>Appeal from orders of tribunal:</u> - If any party is aggrieved by an order passed by NCLT, then an appeal can be preferred before NCLAT. - Time - limit for filing appeal: Within 45 days of receipt of order from NCLT. Appeal can be filed even after 45 days, if sufficient cause. (Extension maximum by 45days) - NCLAT shall pass the final order, after giving ROBH - Final order must be sent to all parties concerned.</p>		<p><u>Vacancy in NCLT/NCLAT not to invalidate the acts or proceedings:</u> If there is any vacancy in office of NCLT / NCLAT or if there is any defect in constitution of NCLT / NCLAT, it shall not invalidate any act / proceedings. Similarly, no appointment of any member of NCLT/ NCLAT shall be invalid, merely by reason of any vacancy / defect in constitution of selection committee.</p>

Super - Quick Revision of IMP Provisions of Compounding / Special Courts etc:

<p><u>Establishment of Special Court:</u></p> <p>A Special Court shall consist of (a) a single Judge holding office as a Session Judge or Additional Session Judge, in case of offences punishable under this Act, with imprisonment of 2 years or more (b) a MM / JM of First Class, in case of other offences, who shall be appointed by CG in concurrence with the Chief Justice of HC, within whose jurisdiction the judge to be appointed is working.</p>	<p><u>Offences to be non-cognizable:</u></p> <ul style="list-style-type: none"> • Every offence under CA, 2013 except that u/s 212 (6) = Non - Cognizable (i) <u>Cognizance of any offence under CA, 2013</u> - <ul style="list-style-type: none"> - Any Offence which is alleged to have been committed by any Company or its officer thereof: <p>Cognizance shall be taken only on written complaint of ROC, A shareholder of company or a Member, or Person authorised by CG</p>	<p><u>Mediation & Conciliation panel:</u></p> <ul style="list-style-type: none"> • CG shall maintain a panel of experts to be called as Mediation and Conciliation panel. • Any of the parties to proceeding may apply to authorities with fees, to refer the matter to mediation & conciliation panel & then authorities may appoint 1 or more expert from panel. • Authorities may suo-moto also refer the matter to panel. • Panel shall dispose of the matter within 3 months of date of such reference & forward its recommendation to authorities. • Any party to proceeding may file objections, against recommendation of panel to the authorities.
<p><u>Summary Trial:</u></p> <ul style="list-style-type: none"> • Special Court may try any offence under this Act - Which is punishable with imprisonment of ≤ 3 years in a Summary Way. • In case of conviction in above summary trial - no sentence of imprisonment for a term > 1 year shall be passed. • If during Summary Trial, it appears that, it should not be tried in a summary way or the final imprisonment should exceed 1 year, then the Special Court shall, after hearing the parties, record an order, & proceed with Regular Trial. 	<p>(ii) Cognizance of offence relating to issue of / transfer of securities (non - payment of dividend) -</p> <p>Cognizance <u>may</u> also be taken, on a written complaint by a person authorised by SEBI.</p> <p>Note 2: In case of a Govt. co., the words 'ROC, shareholders, Members' shall be omitted i.e. Cognizance only on written complaint by a person authorised by CG.</p>	<p><u>Power of CG to appoint company prosecutor:</u></p> <p>CG may appoint generally or for any case or in any case or for any specified class of cases in any local area, 1 or more persons as company prosecutor for conduct of prosecutions under this Act. They shall have all powers & privileges of a Public Prosecutor.</p>

Appeal against Acquittal:

CG may direct any Company Prosecutor or authorize any other person, to, present an appeal from an order of acquittal passed by any court, other than High Court & this appeal shall be deemed as validly presented to an Appellate Court.

Lesser penalties for OPC or Small companies:

Notwithstanding anything contained in the Act, if an OPC or a Small Company fails to comply with provisions of sec. 92 (5), 117 (2) or 137 (3), then such company & officer in default of such company shall be liable to a penalty which shall not be more than $\frac{1}{2}$ of the penalty specified in such sections.

Factors for determining level of punishment:

Court / Special Court, shall consider the following, while determining fine / Imprisonment :

- Size of company
- Nature of business of such company
- Injury to Public interest
- Nature of default
- Repetition of default
- Amount of disproportionate gain or unfair advantage
- Amount of loss caused.

Penalty for repeated default:

Where a company / officer of a company / other person having already subjected to penalty for default under any provisions of this Act, again commits such default within 3 years from date of order imposing such penalty passed by AO or RD,

it shall be liable for second or subsequent defaults for an amount = Twice the amount of penalty provided for such default under relevant provisions of this Act.

Super - Quick Revision of IMP Provisions of Compounding / Special Courts etc:

Establishment of Special Court:

A Special Court shall consist of : (a) a single Judge holding office as a Session Judge or Additional Session Judge, in case of offences punishable under this Act, with Imprisonment of 2 years or more & (b) a MM / JM of First Class, in case of other offences, who shall be appointed by CG in concurrence with the Chief Justice of HC, within whose jurisdiction the judge to be appointed is working.

Summary Trial:

• Special Court may try any offence under this Act - Which is punishable with imprisonment of ≤ 3 years in a Summary Way. • In case of conviction in above summary trial - no sentence of imprisonment for a term > 1 year shall be passed. • If during Summary Trial, it appears that, it should not be tried in a summary way or the final imprisonment should exceed 1 year, then the Special Court shall, after hearing the parties, record an order, & proceed with Regular Trial.

Offences to be non-cognizable:

• Every offence under CA, 2013 except that u/s 212 (6) = Non - Cognizable

(i) Cognizance of any offence under CA, 2013 :-

- Any Offence which is alleged to have been committed by any Company or its officer thereof:

Cognizance shall be taken only on written complaint of ROC, A shareholder of company or a Member, or Person authorised by CG

(ii) Cognizance of offence relating to issue of / transfer of securities & non - payment of dividend :-

Cognizance may also be taken, on a written complaint by a person authorised by SEBI.

Note 2: In case of a Govt. co., the words 'ROC, shareholders, Members' shall be omitted i.e. Cognizance only on written complaint by a person authorised by CG.

Mediation & Conciliation panel:

• CG shall maintain a panel of experts to be called for Mediation and Conciliation panel.

• Any of the parties to proceeding may apply to the authorities with fees, to refer the matter to mediation & conciliation panel & the authorities may appoint 1 or more expert from panel.

• Authorities may suo-moto also refer the matter to panel.

• Panel shall dispose of the matter within 3 months of date of such reference & forward its recommendations to authorities.

• Any party to proceeding may file objections, against recommendation of panel to the authorities.

Power of CG to appoint company prosecutor:

CG may appoint generally 1 or more persons as company prosecutor for any case or in any case for any specified class of cases in any local area, 1 or more persons as company prosecutor for conduct of prosecutions under this Act. They shall have all powers & privileges of a P. Prosecutor.

<p><u>Appeal against Acquittal:</u></p> <p>CG may direct any Company Prosecutor or authorize any other person, to, present an appeal from an order of acquittal passed by any court, other than High Court & this appeal shall be deemed as validly presented to an Appellate Court.</p>	<p><u>Lesser penalties for OPC or Small companies:</u></p> <p>Notwithstanding anything contained in the Act, if an OPC or a Small Company fails to comply with provisions of sec. 92 (5), 117 (2) or 137 (3), then such company & officer in default of such company shall be liable to a penalty which shall not be more than $\frac{1}{2}$ of the penalty specified in such sections.</p>
<p><u>Factors for determining level of punishment:</u></p> <p>Court / Special Court, shall consider the following, while determining fine / Imprisonment :</p> <ul style="list-style-type: none"> • Size of company • Nature of business of such company • Injury to Public interest • Nature of default • Repetition of default • Amount of disproportionate gain or unfair advantage • Amount of loss caused. 	<p><u>Penalty for repeated default:</u></p> <p>Where a company / officer of a company / other person having already subjected to penalty for default under any provisions of this Act, again commits such default within 3 years from date of order imposing such penalty passed by AO or RD,</p> <p>it shall be liable for second or subsequent defaults for an amount = Twice the amount of penalty provided for such default under relevant provisions of this Act.</p>

3. Thomas Vettom V. J. v. Kuttanad Rubber Co. Ltd.
Non declaration of dividend \neq Oppression.

4. Ashok Betelnut Co. Pvt.Ltd. v. M.K. Chandrakanth
Continuous losses in the company \neq Oppression.

5. Rajamundry Electric Corporation V. v. Nageswar Rao
Withdrawal of consent from petition by any SHS during proceedings, shall have no effect.

6. Lalita Rajya Lakshmi v. Indian Motor Company
Mere denial of inspection of BOA to SHS \neq Oppression

Summary of IMP Penalties:

Section No.	Default	Amount of Penalty
242	Amending the MOA / AOA which is inconsistent with Tribunal's Order	<ul style="list-style-type: none"> Company shall be punishable with fine – Min- Rs. 1 Lakh Max – Rs. 25 Lakh & Every officer (defaulting) shall be punishable with Imprisonment for a term upto 6 months or Fine- Minimum – Rs.25,000, Maximum Rs. 1 Lakh or Both
243	If any Director / MD / Manager knowingly acts even after Termination	Imprisonment – upto 6 months OR fine – upto Rs.5,00,000 OR Both
245	Contravention of Tribunal's Order u/s 245	Company shall be punishable with fine – Min – Rs. 5 Lakhs, Max – Rs. 25 Lakhs & Every Defaulting Officer of the company shall be punishable with imprisonment upto 3 years & with fine –Min – Rs. 25,000 – Max – Rs. 1 Lakh.

Super - Quick Revision of IMP Provisions of Prevention of Oppression & Mismanagement

<p><u>Application to tribunal for relief in cases of oppression etc.:</u> Right to apply by member : Any member of a company, who complains that there is - (a) Oppression or (b) Mismanagement may apply to Tribunal, provided such member has a right to apply u/s 244, for an order. C.G, if it is of the opinion that affairs of company are being conducted in a manner prejudicial to public interest, it may itself apply to Tribunal, for an order.</p> <p>Where in opinion of C.G, there exist circumstances suggesting that -</p> <p>(a) any person concerned in conduct & management - guilty of fraud, misfeasance, persistent negligence or default in carrying out his obligations etc</p> <p>(b) business is not conducted as per sound business principles/commercial practices;</p> <p>(c) a company is conducted & managed in a manner which is causing serious injury / damage to interest of the trade, etc</p> <p>(d) the business is been conducted to defraud its creditors, members etc prejudicial to public interest.</p>	<p><u>IMP Notes:</u></p> <p>(1) SHS, getting reduced to minority status, because additional shares were allotted & new majority was formed; this is not covered under this section, unless there is oppression / mis - management done.</p> <p>(2) Failure to declare dividend, does not amount to oppression.</p> <p>(3) Legal Heir of deceased SHS is entitled to file petition.</p> <p>(4) Continuous losses in the company, does not amount to oppression.</p> <p>(5) Harsh treatment of a member, in capacity of director or other officer or employee, by BOD / Management is not covered u/s 241.</p> <p>(6) Right to apply under this section, is not 'only' available to minority SHS; it is available to all those who are eligible u/s 244.</p>	<p><u>Powers of the Tribunal :</u></p> <p>Orders may provide for :</p> <p>(a) Conduct of affairs in future</p> <p>(b) Purchase of shares by other members / co.</p> <p>(c) Reduction of share capital, if any</p> <p>(d) Restriction on transfer/ allotment of securities</p> <p>(e) Termination/Modification of agreement between company & director/ manager or any person.</p> <p>(f) Setting aside transfer of any property transaction done in last 3 months</p> <p>(g) Removal of Managerial Personnel</p> <p>(h) Recovery of undue gains done by Managerial Personnel</p> <p>(i) Appointment of person who may report to Tribunal from time to time</p> <p>(j) Imposition of cost on company, if required</p> <p>Order of Tribunal should be filed by company to ROC within 30 days.</p> <p>Alteration in MOA / AOA must be done & it should also be filed with ROC within 30 days.</p>
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Summary of IMP Penalties:

Section No.	Contravention	Penalty
206	If a company fails to furnish any information / explanation/ document as required	Company & every officer (defaulting), shall be punishable with : Fine upto Rs. 1 Lakh & additional fine upto Rs. 500 / day in case of a continuing failure.
217	If any director / officer of company, disobeys the directions issued by ROC / Inspector	Imprisonment upto 1 year & Fine : Min - Rs. 25,000 , Max - Rs. 1,00,000
217	If any person fails to : • Produce required information w.r.t. books / papers • to furnish any other information • to appear before Inspector / to answer any question • to sign the examination notes	Imprisonment upto 6 months & Fine : Min - Rs. 25,000, Max - Rs. 1,00,000 & further fine of Rs. 2000 / day for continuing failure.
221	Tribunal's order for Freezing of Assets	On company - fine - Min : Rs. 1,00,000 Max : Rs. 25,00,000 On defaulting officer : Imprisonment upto 3 years or Fine : Min Rs. 50,000; Max Rs. 5,00,000 or both.
222	Imposition of Restriction on Securities	• On company - Fine - Min Rs. 1,00,000 - Max Rs. 25,00,000 • On defaulting officer : Fine - Min Rs. 25000 ; Max Rs. 500000 or imprisonment upto 6 months or both.

Super - Quick Revision of IMP Provisions of Inspection, Inquiry & Investigation

<p><u>Power to call for information, inspect books & conduct inquiries:</u></p>	<p><u>Report on inspection:</u></p>	<p><u>Investigation into affairs of company:</u></p>
<p>ROC may require the company to Furnish Info & to Produce BOA/Documents</p>	<p>After Inspection / Inquiry u/s 206 & other Books & Papers of company u/s 207, ROC / Inspector shall submit a report in writing to CG along with such documents, as it thinks fit + After Inspection / Inquiry u/s 206 & other Books & Papers of company u/s 207, ROC / Inspector shall submit a report in writing to CG* along with such documents, as it thinks fit.</p>	<p>On Following Basis: On receipt of ROC's Report; On SR passed by company; In Public Interest; On Court/Tribunal's Order</p>
<p>ROC may exercise such power either on receipt of info or scrutiny of any document filed with ROC</p>	<p><u>Search & Seizure:</u></p>	<p><u>Investigation into affairs of a company by SFIO:</u></p>
<p>Duty of Company: To furnish such document/info / explanation within specified / extended time</p>	<p>(1) If ROC / Inspector has reasonable grounds to believe that books & papers of a company are likely to be destroyed, mutilated, altered, falsified or secreted, he may: Enter + Search any place (after approval of Special Court) + Seize them 2) Books / Papers must be returned as soon as may be, but not later than 180 days. Can be called for for further period of 180 days (if needed) by an order in writing.</p>	<p>If CG is of the opinion, that it is necessary to investigate into affairs of the company by SFIO on the basis of:</p>
<p>Duty of Past Officers : If info / explanation relates to a past period, then the officers who had been in employment for such period (if so called by ROC), shall be liable to furnish it, to the best of their knowledge.</p>	<p>(ctd)</p>	<p>On receipt of ROC's Report; On SR passed by company; In Public Interest; On request from any department of CG/SG</p>
<p>Additional written notice by ROC: If No info was furnished to ROC; If Additional info is required; If unsatisfactory state of affairs exist.</p>	<p></p>	<p>Offence covered u/s 447 shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless—</p>
		<p>• Public prosecutor has been given an opportunity to oppose the application of release &</p>

<p>(ctd)</p> <ul style="list-style-type: none"> • Where he opposes the application, the Special Court is satisfied that there are reasonable grounds to believe that he is not guilty of such offence & that he is not likely to commit any offence, while on bail. However a Person : <ul style="list-style-type: none"> • Who is under the age of 16 years or • is a woman or • is sick or infirm, may be released on bail, if Special Court, so directs. <p>Person arrested above shall within 24 hours (excl. travel time) be taken to Judicial or Metropolitan Magistrate or Special Court having jurisdiction.</p>	<p><u>Security for payment of costs & expenses of investigation:</u></p> <ul style="list-style-type: none"> - If investigation is ordered by CG u/s 210 (in case, where SR is passed by the company) OR where order is made by Tribunal u/s 213, then this section becomes applicable. - CG will require the applicant to give security for payment of costs & expenses of investigation, maximum upto Rs. 25000 & this can be demanded before appointing inspector. - This shall be refunded back to applicant, if it results in prosecution. 	<p><u>Protection of employees during investigation:</u></p> <ul style="list-style-type: none"> • If during any investigation or pendency of proceeding u/s 210 or 212 or 213 or 216 or 219, If any company proposes <ul style="list-style-type: none"> - to discharge / suspend any employee or - to punish him (by dismissal, removal, reduction in rank) or - to change his employment (to his disadvantage), then the company shall obtain approval of Tribunal • If approval is not received within 30 days of making the above application, then & only then, company may proceed to take action against the employee. • If company or employee is not satisfied with the objections raised by Tribunal, it may within 30 days of receipt of objection notice, prefer an appeal to Appellate Tribunal, with prescribed fees. • Decision of Appellate Tribunal (NCLAT) shall be final & binding on NCLT & company. <p>Important Note : If Tribunal does not reply within 30 days, then no remedy is available to the employee.</p>
<p><u>Investigation into affairs of a company on an order made by tribunal:</u></p> <p>-If application is made before Tribunal by certain number of members, supported by such documents / evidence or on an application made by any other person or suo-moto, the Tribunal may order Investigation if: Business is being conducted to defraud creditors / members etc; Company was formed for fraudulent purposes; Promoter has been guilty of fraud etc; Members are not given all the required info.</p>	<p><u>Investigation of ownership of company:</u></p> <p>CG may appoint 1 or more inspector to investigate & report on matters relating to company & membership for determining the true persons, if it appears to CG, that there is a reason to do so :</p> <p>Who has been interested in success or failure of company; who have been able to influence the policy of company; who are beneficial owners of company.</p>	