

# DE-CRIMINALISATION OF PENALTIES FOR COMPANIES LAW BREACHES

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Ministry of Corporate Affairs

## De-criminalisation of penalties for Companies Law breaches

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Through the Companies (Amendment) Act, 2019, changes were made in the Companies Act, 2013, inter alia, to convert 16 criminal offences into civil wrongs. This was stated by Shri Anurag Singh Thakur, Union Minister of State for Finance & Corporate Affairs, in a written reply to a question in Rajya Sabha today.

Stating the chronology, Shri Thakur said that in continuation of the Government's endeavour in similar directions, a Company Law Committee was constituted by the Ministry of Corporate Affairs in September, 2019, inter alia, to further decriminalise the provisions of the Companies Act, 2013 based on their gravity and to take other concomitant measures to provide further Ease of Living for corporates in the country. The Committee has recommended amendments in the Companies Act, 2013 to remove criminality in case of procedural and technical defaults as well as defaults which can be determined objectively and which, otherwise, lack the element of fraud or do not involve larger public interest. The amendments seek to provide alternative methods of sanctions in some cases.

Shri Thakur stated a list of amendments the Committee recommended in 43 penal provisions of the Companies Act, 2013 (Act), as under:-

- a. Re-categorising 23 offences out of the 66 remaining compoundable offences under the Act, to be dealt with in the in-house adjudication framework wherein these defaults would be subject to a penalty levied by an adjudicating officer. In addition, the quantum of penalties recommended are lower than the quantum of fines presently provided in the Act;
- b. Omitting, altogether, 7 compoundable offences; limiting punishment for 11 compoundable offences to only fine by removing provision for imprisonment and recommending that 5 offences be dealt under alternative frameworks;
- c. Reducing the quantum of penalties in respect of 6 provisions, which were shifted to the in-house adjudication framework through the recently passed Companies (Amendment) Act, 2019;
- d. Retention of status-quo in case of the non-compoundable offences.

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