



MCA HAS CONSTITUTED A 10-MEMBER COMMITTEE TO REVIEW THE OFFENCES UNDER THE COMPANIES ACT, 2013¹

The Ministry of Corporate Affairs (MCA) has constituted a 10 Member Committee, headed by the Secretary of Ministry of Corporate Affairs, for review of the penal provisions in the Companies Act, 2013 may be setup to examine 'de-criminalisation' of certain offences.

The MCA seeks to review offences under the Companies Act, 2013 as some of the offences may be required to be decriminalised and handled in an in-house mechanism, where a penalty could be levied in instances of default. This would also allow the trial courts to pay more attention on offences of serious nature. Consequently, it has been decided that the existing compoundable offences in the Companies Act - 2013 viz. offences punishable with fine only or punishable with fine or imprisonment or both may be examined and a decision may be taken as to whether any of such offences may be considered as 'civil wrongs' or 'defaults' where a penalty by an adjudicating officer may be imposed in the first place and only consequent to further non-compliance of the order of such authority will it be categorised as an offence triable by a special court.

It is also required to be seen as to whether any non-compoundable offences viz. offence punishable with imprisonment only, or punishable with imprisonment and also with fine under the Companies Act, 2013 may be made compoundable. **The Committee shall submit its report within thirty days to the Central Government for consideration of its recommendations.**

The terms of reference of the Committee are as follows:

- i. To examine the nature of all 'acts' categorised as compoundable offences viz. offences punishable with fine only or punishable with fine or imprisonment or both under the CA-13 and recommend if any of such 'acts' may be re-categorised as 'acts' which attract civil liabilities wherein the company and its 'officers in default' are liable for penalty;
- ii. To review the provisions relating to non-compoundable offences and recommend whether any such provisions need to be re-categorised as compoundable offence;
- iii. To examine the existing mechanism of levy of penalty under the CA-13 and suggest any improvements thereon;
- iv. To lay down the broad contours of an in-house adjudicatory mechanism where penalty may be levied in a MCA21 system driven manner so that discretion is minimised;
- v. To take necessary steps in formulation of draft changes in the law;
- vi. Any other matter which may be relevant in this regard.

The Committee's constitution, under the Chairmanship of Secretary, is the following:

(1)	Secretary, Ministry of Corporate Affairs	Chairperson
(2)	Shri T.K. Vishwanathan, Former Secretary General Lok Sabha and Chairman, BLRC	Member

¹ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1538673>

(3)	Shri Uday Kotak, MD, Kotak Mahindra Bank	Member
(4)	Shri Shardul S Shroff, Executive Chairman, Shardul Amarchand Mangaldas & Co.	Member
(5)	Shri Ajay Bahl, Founder Managing Partner, AZB & Partners	Member
(6)	Shri Amarjit Chopra, Senior Partner, GSA Associate	Member
(7)	Shri Arghya Sengupta, Vidhi Centre for Legal Policy	Member
(8)	Shri Sidharth Birla, Former President, FICCI	Member
(9)	Ms. Preeti Malhotra, Partner and Executive Director of Smart Group	Member
(10)	Joint Secretary (Policy), Ministry of Corporate Affairs	Member-Secretary

Team ICSI

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