

Ref. No. MCHI/PRES/19-20/527

June 23, 2020

To,  
**Ministry of Finance**  
**Department of Financial Service**

**Sub: Suggestion regarding Decriminalisation of Minor Offences For Improving Business Sentiment And Unclogging Court Processes**

Respected Sir / Madam,

CREDAI-MCHI is an apex body consisting of members from the Real Estate Industry among Mumbai Metropolitan Region (MMR). It is the most prominent and the only recognized body of Real Estate Developers in Mumbai and MMR. We bring together members dealing in Real Estate Development on one common platform to address various issues facing the Industry. With a strong Membership of over 1800 leading Developers in Mumbai, CREDAI-MCHI has expanded across MMR, having its own units in the region of Thane, Kalyan-Dombivli, Mira-Virar, Raigad and Navi Mumbai. CREDAI-MCHI is recognized by Government of Maharashtra and the Central Government and helps in meeting their objectives of providing housing, which is a basic necessity.

As per the notice published on department of financial services dated 8<sup>th</sup> June 2020, we hereby would like to submit our detailed suggestion and comments with regard to provisions of the relevant sections and current punishment.

The copy of our suggestion is Annexed herewith with our letter

We hope that our suggestion will be duly considered while finalizing the provisions.

Thanking you,

Yours Sincerely,  
**For CREDAI-MCHI**

**Nayan A. Shah**  
President

**Bandish Ajmera**  
Hon. Secretary

## Suggestions For Decriminalisation of Minor Offences for Improving Business Sentiments and Unclogging Court Process

### ANNEX

SN	Statute	Provisions of the Relevant Sections and Current Punishment	Suggestions for Decriminalisation (if any) along with Rationale
1.	Insurance Act, 1938	<p><b>Section 12 (read with Section 147 of the Companies Act, 2013):</b>  The balance sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in respect of all insurance business transacted by him, shall, unless they are subject to audit under the Companies Act, 2013 (18 of 2013), be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 147 of the Companies Act, 2013.</p> <p>As per Section 147 of the Companies Act, 2013, the company shall be punishable with fine which shall not be less than INR 25,000/- (Indian Rupees twenty-five thousand only) but which may extend to INR 5,00,000/- (Indian Rupees five lakh only) and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to 1 (one) year or with fine which shall not</p>	<p><i>As per Section 147 of the Companies Act, 2013, the company shall be punishable with fine which shall not be less than INR 5,000/- (Indian Rupees Five thousand only) but which may extend to INR 1, 00,000/- (Indian Rupees One lakh only) and every officer of the company who is in default shall be issued strict warning and repeat of offence shall attract penalty five times as mentioned above.</i></p> <p><b>Section 103:</b>  <i>If a person carries on the business of insurance without obtaining a certificate of registration under section 3, he shall be liable to a penalty not exceeding rupees five crores</i></p>
		<p>be less than INR10,000 (Indian Rupees ten thousand rupees only) but which may extend to INR 1,00,000 (Indian Rupees one lakh rupees only), or with both.</p> <p><b>Section 103:</b>  If a person carries on the business of insurance without obtaining a certificate of registration under section 3, he shall be liable to a penalty not exceeding rupees twenty-five crores and with imprisonment which may extend to ten years.</p>	<p><i>and repeat of offence shall attract penalty five times as mentioned above.</i></p> <p><b>Rationale:</b>  <b>This will encourage compliance and if the offence is repeated than the heighest penalty as envisaged in the existing provisions can be strictly levied without criminal proceedings.</b></p>

2.	<b>SARFAESI Act, 2002</b>	<b>Section 29:</b> If any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder, he shall be punishable with imprisonment for a term which may extend to 1 (one) year, or with fine, or with both.	<i>If any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder, he shall be punishable with fine.</i> <b>Rationale:</b> Decriminalisation of minor offences are expected to go a long way in improving ease of doing business and helping unclog the court system and prisons. It would also be a significant step in the Government of India's objective of achieving 'SabkaSaath, Sabka Vikas and Sabka Vishwas'.
----	---------------------------	---	--

3.	<b>PFRDA Act, 2013</b>	<p><b>Section 16 (7):</b></p> <p>If any person fails without reasonable cause or refuses—</p> <ul style="list-style-type: none"> <li>(a) to produce to an Investigating Authority or any person authorised by him in this behalf any book, register, other document or record which it is his duty under subsection (2) or sub-section (3) to furnish; or</li> <li>(b) to furnish any information which it is his duty under subsection (3) to furnish; or</li> <li>(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or</li> <li>(d) to sign the notes of any examination referred to in sub-section (6),</li> </ul> <p>-he shall be punishable with imprisonment for a term which may extend to 1 (one) year, or with fine, which may extend to INR 25 Crores (Indian Rupee twenty-five crore only), or with both, and also with a further fine which may extend to INR, 10,00,000/- (Indian Rupees ten lakh only) for every day after the first day during which the failure or refusal continues.</p> <p><b>Section 32 (1):</b></p> <p>Without prejudice to any award of penalty by the member under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to 10 (ten) years, or with fine, which may extend to INR 25 Crores (Indian Rupees twenty-five crore only) or with both.</p>	<p><b>Section 16 (7):</b></p> <p><i>-he shall be punishable with fine which may extend to INR 5 Crores (Indian Rupee five crore only), and in case repeat of offence shall attract penalty five times as mentioned above, with a further fine which may extend to INR, 1,00,000/- (Indian Rupees one lakh only) for every day after the first day during which the failure or refusal continues.</i></p> <p><b>Rationale:</b></p> <p><b>This will encourage compliance and if the offence is repeated than the heighest penalty as envisaged in the existing provisions can be strictly levied without criminal proceedings.</b></p> <p><b>Section 32 (1):</b></p> <p><i>Without prejudice to any award of penalty by the member under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with with fine, which may extend to INR 5 Crores (Indian Rupees Five crore only).</i></p> <p><b>Rationale:</b></p> <p><b>Decreminalisation of minor offences are expected to go a long way in improving ease of doing business and helping unclog the court system and prisons. It would also be a significant step in the Government of India's objective of achieving 'SabkaSaath, Sabka Vikas and Sabka Vishwas'.</b></p>
----	------------------------	--	---

4.	<b>RBI Act, 1934</b>	<p><b>Section 58B (1):</b></p> <p>Whoever in any application, declaration, return, statement, information or particulars made, required or furnished by or under or for the purposes of any provisions of this Act, or any order, regulation or direction made or given thereunder or in any prospectus or advertisement issued for or in connection with the invitation by any person, of deposits of money from the public willfully makes a statement which is false in any material particular knowing it to be false or willfully omits to make a material statement shall be punishable with imprisonment for a term which may extend to 3 (three) years and shall also be liable to fine.</p> <p><b>Section 58B (4A):</b></p> <p>If any person contravenes the provisions of sub-section (1) of section 45-IA (Requirement of registration and net owned fund), he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to INR25,00,000/- (Indian rupees twenty five lakh only).</p> <p><b>Section 58B (5):</b></p> <p>If any person other than an auditor—</p> <ul style="list-style-type: none"> <li>(a) receives any deposit without being authorized so to do or in contravention of any direction given or order made under Chapter IIIB (provisions relating to non-banking institutions receiving deposits and financial Institutions); or</li> <li>(aa) fails to comply with any direction given or order made by the Bank under any of the provisions of Chapter IIIB; or</li> <li>(b) issues any prospectus or advertisement otherwise than in accordance with section 45J (Bank to regulate or prohibit issue of prospectus or advertisement soliciting deposits of money) or any order made under section 45 (Appointment of agents), as the case may be, -</li> </ul> <p>he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend, (i) in the case of a contravention falling under clause (a), to twice the amount of the deposit received; and (ii) in the case of a</p>	<p><b>Please decriminalise the provisions with reverent provisions for fine.</b></p>
----	----------------------	--	--

	<p>contravention falling under clause (b), to twice the amount of the deposit called for by the prospectus or advertisement.</p> <p><b>Section 58B (5A):</b>  If any person contravenes any provision of section 45S (Deposits not to be accepted in certain cases), he shall be punishable with imprisonment for a term which may extend to 2 (two) years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or INR2,000/- (Indian Rupees two thousand only), whichever is more, or with both:  Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than 1 (one) year and the fine shall not be less than INR1,000/- Indian Rupees one thousand only).</p>	
5.	<p><b>Payment and Settlement Systems Act, 2007</b></p> <p><b>Section 26 (1):</b>  Imprisonment of a minimum of 1 month extendable to 10 years or fine up to INR 1 cr. or both Additional fine of INR 1 lakh per day once the contravention or failure to comply continues.</p> <p><b>Section 26 (4):</b>  Imprisonment of up to 6 months or fine which may extend to INR 5 lakh or an amount equal to twice the amount of damages incurred, which is higher or both (imprisonment and fine).</p>	<p><b>Section 26 (1):</b>  <u>Fine up to INR 10,00,000. or Additional fine of INR 10,000 per day once the contravention or failure to comply continues.</u></p> <p><b>Section 26 (4):</b>  <u>Fine which may extend to INR 1 lakh or an amount equal to twice the amount of damages incurred, which is higher.</u></p> <p><b>Rationale:</b>  Decriminalisation of minor offences are expected to go a long way in improving ease of doing business and helping unclog the court system and prisons. It would also be a significant step in the Government of India's objective of achieving 'SabkaSaath, SabkaVikas and SabkaVishwas'.</p>

6.	<b>NABARD Act, 1981</b>	<p><b>Section 56 (1):</b>  Whoever in any return, balance-sheet, or other document or in any information required or furnished by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.</p>	<b>Please decriminalise the provisions with reverent provisions for fine.</b>
7.	<b>NHB Act, 1987</b>	<p><b>Section 49:</b></p> <p>(1) Whoever in any return, balance-sheet, or other document or in any information required or furnished by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.</p> <p>(2) If any person fails to produce any book, account or other document, or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one hundred rupees for every day during which the failure continues after conviction for the first such failure.</p> <p>(2A) If any person contravenes the provisions of sub-section (1) of section 29A, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.</p> <p>(2B) If any auditor fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under section 33, he shall be punishable with fine which may extend to five thousand rupees.</p>	<b>Please decriminalise the provisions with reverent provisions for fine.</b>

	<p>(2C) Whoever fails to comply with any order made by the National Company Law Tribunal under sub-section (2) of section 36A, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine of not less than rupees fifty for every day during which such non-compliance continues;</p> <p>(3) If any person other than an auditor-</p> <ul style="list-style-type: none"> <li>(a) receives any deposit in contravention of any direction given or order made under Chapter V; or</li> <li>(aa) fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under any of the provisions of Chapter V; or</li> <li>(b) issues any prospectus or advertisement otherwise than in accordance with section 35 or any order made under section 30, as the case may be; he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend,--</li> </ul> <ul style="list-style-type: none"> <li>(i) in the case of a contravention falling under clause (a), to twice the amount of the deposit received; and</li> <li>(ii) in the case of a contravention falling under clause (b), to twice the amount of the deposit called for by the prospectus or advertisement.</li> </ul> <p>(4) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act or of any order, regulation or direction made or given or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees and where a contravention or default is a continuing one, with further fine which may extend to one hundred rupees for every day, after the first, during which the contravention or default continues.</p>	
8.	<p><b>State Financial Corporations Act, 1951</b></p> <p><b>Section 42 (1):</b></p> <p>Whoever, in any bill of lading, warehouse receipt or other document given to the Financial Corporation, whereby security is given or is purported to be given to the Financial Corporation for any accommodation granted by it under this Act, wilfully makes any false statement or knowingly permits any false statement to be made shall</p>	<p><b>Please decriminalise the provisions with reverent provisions for fine.</b></p>

		<p>be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.</p> <p><b>Section 42 (2):</b> Whoever, without the consent in writing of the Financial Corporation, uses the name of the Financial Corporation in any prospectus or advertisement shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.</p>	
9.	<b>Credit Information Companies (Regulation) Act, 2005</b>	<p><b>Section 23 (1):</b> Whoever, in any return or other document or in any information required or furnished by, or under, or for the purposes of, any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.</p>	<b>Please decriminalise the provisions with reverent provisions for fine.</b>
10.	<b>Factoring Regulation Act, 2011</b>	<p><b>Section 23:</b> If any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder, for which no specific penalty has been provided for, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.</p>	<b>Please decriminalise the provisions with reverent provisions for fine.</b>
11.	<b>Actuaries Act, 2006</b>	<p><b>Section 37:</b> Subject to the provisions of section 10, any person who,—            (a) not being a member of the Institute,—            (i) represents that he is a member of the Institute in any of the manners mentioned in section 7; or            (ii) uses the designation "Actuary"; or            (iii) uses the letters "AIAI" or "FIAI" after his name; or            (iv) practises the profession of an Actuary; or            (b) being a member of the Institute, but not having a certificate of practice, represents that he is in practice, or practises as an Actuary,</p>	<b>Please decriminalise the provisions with reverent provisions for fine.</b>

	<p>shall be punishable on first conviction with fine which may extend to one lakh rupees, and on any subsequent conviction with imprisonment which may extend to one year, or with fine which may extend to two lakh rupees, or with both.</p> <p><b>Section 38 (2):</b></p> <p>Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings, which may be taken against him, be punishable with fine, which may extend on first conviction to fifty thousand rupees and on any subsequent conviction with imprisonment which may extend to one year, or, with fine which may extend to one lakh rupees, or with both.</p> <p><b>Section 40 (2):</b></p> <p>Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with fine which may extend to fifty thousand rupees, and on any subsequent conviction with imprisonment which may extend to one year, or with fine which may extend to one lakh rupees, or with both.</p>	
12.	<p><b>Banking Regulation Act, 1949</b></p> <p><b>Section 36 AD (2):</b></p> <p>Whoever contravenes any provision of sub-section (1) without any reasonable excuse shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.</p> <p><b>Section 46:</b></p> <p>Whoever in any return, balance-sheet or other document 1 or in any information required or furnished by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and 2 or with fine, which may extend to one crore rupees or with both.</p>	<p><b>Please decriminalise the provisions with reverent provisions for fine.</b></p>

13.	<b>General Insurance Business (Nationalisation) Act, 1972</b>	<p><b>Section 30:</b></p> <p>If any person wilfully withholds or fails to deliver to an Indian insurance company as required by section 29 any property or any books, documents or other papers which may be in his possession or unlawfully retains possession of any property of an existing insurer which has been transferred to and vested in an Indian insurance company under section 5 or wilfully applies any such property to purposes other than those expressed in or authorised by this Act, he shall, on the complaint of the Indian insurance company, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.</p>	<p><b>Please decriminalise the provisions with reverent provisions for fine.</b></p>
14.	<b>LIC Act, 1956</b>	<p><b>Section 40:</b></p> <p>If any person wilfully withholds or fails to deliver to the Corporation as required by section 13, any property or any books, documents or other papers which may be in his possession or unlawfully retains possession of any property of an insurer which has been 1. The proviso ins. by Act 8 of 2012, s. 6 (w.e.f. 31-3-2012). 15 transferred to and vested in the Corporation under this Act or wilfully applies any such property to purposes other than those expressed in or authorised by this Act, he shall, on the complaint of the Corporation, be punishable with imprisonment which may extent to one year, or with fine which may extend to one thousand rupees, or with both.</p>	<p><b>Please decriminalise the provisions with reverent provisions for fine.</b></p>
15.	<b>Banning of Unregulated Deposit Schemes Act, 2019</b>	<p><b>Section 21 (1):</b></p> <p>Any deposit taker who solicits deposits in contravention of section 3 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than two lakh rupees but which may extend to ten lakh rupees.</p> <p><b>Section 21 (2):</b></p> <p>Any deposit taker who accepts deposits in contravention of section 3 shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and</p>	<p><b>Please decriminalise the provisions with reverent provisions for fine.</b></p>

	<p>with fine which shall not be less than three lakh rupees but which may extend to ten lakh rupees.</p> <p><b>Section 21 (3):</b> Any deposit taker who accepts deposits in contravention of section 3 and fraudulently defaults in repayment of such deposits or in rendering any specified service, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years and with fine which shall not be less than five lakh rupees but which may extend to twice the amount of aggregate funds collected from the subscribers, members or participants in the Unregulated Deposit Scheme.</p> <p><b>Section 22:</b> Any deposit taker who contravenes the provisions of section 4 shall be punishable with imprisonment for a term which may extend to seven years, or with fine which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of the fraudulent default referred to in said section, whichever is higher, or with both.</p> <p><b>Section 23:</b> Any person who contravenes the provisions of section 5 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which may extend to ten lakh rupees.</p> <p><b>Section 24:</b> Whoever having been previously convicted of an offence punishable under this Chapter, except the offence under section 26, is subsequently convicted of an offence shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and with fine which shall not be less than ten lakh rupees but which may extend to fifty crore rupees.</p>	
--	--	--

16.	<b>Chit Funds Act, 1982</b>	<p><b>Section 76 (1):</b>          Whoever contravenes or abets the contravention of any of the provisions of sections 4, 5, 8, 9, 11, 12, 13, 14, 19, 20, 22, 24, 30, 31, sub-section (4) of section 33, sections 46, 47 or sub-section (5) of section 61 shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.</p> <p><b>Section 76 (3):</b>          Whoever wilfully makes a statement in any document required to be filed under this Act which is false in any material particular shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.</p> <p><b>Section 77:</b>          If any person convicted of an offence under sub-section (1) or sub-section (3) of section 76 is again convicted of an offence under any of the said sub-sections he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to two years and shall also be liable to fine.</p>	<b>Please decriminalise the provisions with reverent provisions for fine.</b>
17.	<b>DICGC Act, 1961</b>	<p><b>Section 47 (1):</b>          Whoever in any return, balance-sheet, or other document or in any information required or furnished by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.</p>	<b>Please decriminalise the provisions with reverent provisions for fine.</b>
18.	<b>Negotiable Instruments Act, 1881</b>	<p><b>Section 138:</b>          Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of the account or because the cheque exceeds the amount standing to the credit of the account, the person by whom the cheque was drawn shall be liable to pay the amount of the cheque to the person in whom it was drawn.</p>	<p><b>Section 138:</b>  <i>Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of the account or because the cheque exceeds the amount standing to the credit of the account, the person by whom the cheque was drawn shall be liable to pay the amount of the cheque to the person in whom it was drawn.</i></p>

	<p>credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both.</p> <p><b>Section 143 (1):</b></p> <p>Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) all offences under this Chapter shall be tried by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials:</p> <p>Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year and an amount of fine exceeding five thousand rupees:</p> <p>Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.</p>	<p><i>debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be, without prejudice to any other provision of this Act, be prosecuted only under the applicable/ relevant provisions of Civil Procedure Code. As may be applicable on case to case basis.</i></p> <p><i>This provisions should be made applicable retrospectively so as to achieve the rational as mentioned below</i></p> <p>For Mumbai, Kolkata or Chennai the applicable law for Insolvency is The Presidency Towns Insolvency Act, 1909; for all other places in India, Provincial Insolvency Act, 1920 is applicable. Both laws are similar. After adjudication of bankruptcy under the above Act, all proceedings under Civil and Criminal in nature should come under as Civil proceeding. If a person committing an offence u/s 138 is a company (u/s 141(1) of NI Act), every person in the company works to his best knowledge and capability to achieve the company's goals which are collective act along with the experts' advice. Therefore one single person is not responsible for the act of the company.</p> <p><b>Section 143 (1):</b></p>
--	---	---

		<p><i>This Section to be completed deleted. Decriminalisation as above will make this section irrelevant. (However, Banks should be allowed to charge penalty and bank charges double the existing provisions to act as deterrent)</i></p> <p><b>Rationale:</b></p> <p>The ensuing uncertainty in legal processes and the time taken for resolution in the courts hurts ease of doing business. Criminal penalties including imprisonment for minor offences act as deterrents, and this is perceived as one of the major reasons impacting business sentiment and hindering investments both from domestic and foreign investors. This becomes even more pertinent in the post COVID19 response strategy to help revive the economic growth and improve the justice system. Actions taken for decriminalisation of minor offences are expected to go a long way in improving ease of doing business and helping unclog the court system and prisons hence retrospective applicability is a must for these provisions.</p>
19.	<p><b>Prize Chits and Money Circulation</b></p> <p><b>Section 4:</b></p> <p>Whoever contravenes the provisions of section 3 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both:</p>	<p><b>Please decriminalise the provisions with reverent provisions for fine.</b></p>

<b>Schemes (Banning) Act, 1978</b>	<p>Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.</p> <p><b>Section 5:</b></p> <p>Whoever, with a view to the promotion or conduct of any prize chit or money circulation scheme in contravention of the provisions of this Act or in connection with any chit or scheme promoted or conducted as aforesaid,—</p> <ul style="list-style-type: none"> <li>(a) prints or publishes any ticket, coupon or other document for use in the prize chit or money circulation scheme; or</li> <li>(b) sells or distributes or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution any ticket, coupon or other document for use in the prize chit or money circulation scheme; or</li> <li>(c) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution— (i) any advertisement of the prize chit or money circulation scheme; or (ii) any list, whether complete or not, of members in the prize chit or money circulation scheme; or (iii) any such matter descriptive of, or otherwise relating to the prize chit or money circulation scheme, as is calculated to act as an inducement to persons to participate in that prize chit or money circulation scheme or any other prize chit or money circulation scheme; or</li> <li>(d) brings, or invites any person to send, for the purpose of sale or distribution, any ticket, coupon or other document for use in a prize chit or money circulation scheme or any advertisement of such prize chit or money circulation scheme; or</li> <li>(e) uses any premises, or causes or knowingly permits any premises to be used, for purposes connected with the promotion or conduct of the prize chit or money circulation scheme; or</li> <li>(f) causes or procures or attempts to procure any person to do any of the above-mentioned acts,</li> </ul>	
------------------------------------	--	--

	<p>shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both:</p> <p>Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.</p> <p><b>Section 12 (5):</b></p> <p>If any person fails to comply with the provisions of sub-section (4), he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both:</p> <p>Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.</p>	
--	--	--