



Articles

ANALYSIS OF SECTION 297, 299 & 300 OF THE COMPANIES ACT, 1956 (PART 3)

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In the previous issues, we discussed about the object of the sections, common theme in the Section 297, 299 and 300, parties covered under the Sections, its applicability and exceptions. This is the Third and Last Part of the Series which includes the consequences in case of contravention and whether the offence is compoundable or not.

Sr. No.	Points of Comparison	Section 297	Section 299	Section 300
1.	Consequences in Case of Contravention of the Provisions of the Section.	1) The Contract shall be voidable at the option of the Board. 2) This Section does not provide for any penalty for non compliance. 3) The penalty shall be as per the provisions of Section 629A of the Act. i.e. the Company and every officer of the Company who is in default or such other person shall be punishable with a fine which may extend to Rupees. 5,000/- and where a contravention is a continuing one, with a further fine which may extend to Rupees 500/- for every day after the first day the contravention continues.	1) Vacation of the Office of the Director under Section 283 (1) (i) of the Act, 2) Offence is punishable with a fine of Rupees. 50,000/- under Section 299 (4) of the Act.	1) Every Director who contravenes the provisions of the Section shall be punishable with a fine of Rupees. 50,000/-. 2) The Section 300 (4) also includes the word “knowingly”. Therefore, “mens rea” is an essential ingredient for establishing the Offence.
2.	Whether Offence is Compoundable?	Yes. Section 621A of the Act read with Section 629A.	Yes.	Yes.



Sr. No.	Points of Comparison	
3	Common Judgment – to elaborate on few terms / words used in the Sections.	In Firestone Tyre and Rubber Co V/s Synthesis and Chemicals Ltd. (1971) 41 Comp Cas 377 (Bom): (1970) 2 Comp. Cas LJ 200 (Bom); it was held that “.....In enacting Section 299 and 300, the legislature wisely did not attempt to define 'concern' and 'interest'. Since these were enacted in the interest of the shareholders, so that they may have the benefit of the independent, unbiased and collective judgments, opinion and wisdom of their Board of Directors; the words used in the Sections have been purposely used in as general as possible. To have laid down any confining limits to the operations of these Sections may have resulted in defeating the very object for which these Sections were enacted...”

References:

- 1) The Bare Act – Companies Act, 1956 and
- 2) Guide to the Companies Act, 1956. A Ramaiya, Sixteenth Edition (2004).

Note:

- 1) Sections specifically relate to the Companies Act, 1956.
- 2) Relevant Case Laws, Circulars, Notifications, Letters issued by the Ministry are mentioned, wherever necessary, and same have also been summarized for brevity purpose.

