

Payment and Settlement Systems Act 2007

Chapter VII - Offences and Penalties

(1) Where a person contravenes the provisions of section 4 or fails to comply with the terms and conditions subject to which the authorisation has been issued under section 7, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years or with fine which may extend to one crore rupees or with both and with a further fine which may extend to one lakh rupees for every day, after the first during which the contravention or failure to comply continues.

(2) Whoever in any application for authorisation or in any return or other document or on any information required to be furnished by or under, or for the purpose 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 which shall not be less than ten lakh rupees and which may extend to fifty lakh rupees.

(3) If any person fails to produce any statement, information, returns or other documents, or to furnish any statement, information, returns or other documents, which under section 12 or under section 13, it is his duty to furnish or to answer any question relating to the operation of a payment system which is required by an officer making inspection under section 14, he shall be punishable with fine which may extend to ten lakh rupees in respect of each offence and if he persists in such refusal, to a further fine which may extend to twenty-five thousand rupees for every day for which the offence continues.

(4) If any person discloses any information, the disclosure of which is prohibited under section 22, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five lakh rupees or an amount equal to twice the amount of the damages incurred by the act of such disclosure, whichever is higher or with both.

(5) Where a direction issued under this Act is not complied with within the period stipulated by the Reserve Bank or where no such period is stipulated, within a reasonable time or where the penalty imposed by the Reserve Bank under section 30 is not paid within a period of thirty days from the date of the order, the system provider or the system participant which has failed to comply with the direction or to pay the penalty shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine which may extend to one crore rupees or with both and where the failure to comply with the direction continues, with further fine which may extend to one lakh rupees for every day, after the first during which the contravention continues.

(6) If any provision of this Act is contravened, or if any default is made in complying with any other requirement of this Act, or of any regulation, order or direction made or given or condition imposed thereunder and in respect of which no penalty has been specified, then, the person guilty of such contravention or default, as the case may be, shall be punishable with fine which may extend to ten lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to twenty-five thousand rupees for every day, after the first during which the contravention or default continues.

Section 27 - Offences by companies

(1) Where a person committing a contravention of any of the provisions of this Act or any regulation, direction or order made thereunder is a company, every person who, at the time of the contravention, was in-charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any regulation, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purposes of this section,

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Section 28 - Cognizance of offences

(1) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by an officer of the Reserve Bank generally or specially authorised by it in writing in this behalf, and no court, lower than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any such offence:

Provided that the Court may take cognizance of an offence punishable under section 25 upon a complaint in writing made by the person aggrieved by the dishonour of the electronic funds transfer.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may dispense with the personal attendance of the officer of the Reserve Bank filing the complaint, but the Magistrate may, in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

Section 29 - Application of fine

A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.

Section 30 - Power of Reserve Bank to impose fines

(1) Notwithstanding anything contained in section 26, if a contravention or default of the nature referred to in sub-section (2) or sub-section (6) of section 26, as the case may be, the Reserve Bank may impose on the person contravening or committing default a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention or default is a continuing one, a further penalty which may extend to twenty-five thousand rupees for every day after the first during which the contravention or default continues.

(2) For the purpose of imposing penalty under sub-section (1), the Reserve Bank shall serve a notice on the defaulter requiring him to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such defaulter.

(3) Any penalty imposed by the Reserve Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the defaulter and, in the event of failure of the person to pay the sum within such period, may be recovered on a direction made by the principal civil court having jurisdiction in the area where the registered office of the defaulter company or the official business of the person is situated:

Provided that no such direction shall be made, except on an application made by an officer of the Reserve Bank authorised by it in this behalf.

(4) The Reserve Bank may recover the amount of penalty by debiting the current account, if any, of the defaulter or by liquidating the securities held to the credit of the defaulter or in accordance with the provisions of this Act.

(5) The court which makes a direction under sub-section (3) shall issue a certificate specifying the sum payable by the defaulter and every such certificate shall be enforceable in the same manner as it were a decree made by the court in a civil suit.

(6) Where any complaint has been filed against any person in any court in respect of the contravention or default of the nature referred to in sub-section (2), or, as the case may be, sub-section (4) of section 26, then, no proceeding for the imposition of any penalty on the person shall be taken

under this section.

Section 31 - Power to compound offences

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 193), any offence punishable under this Act for any contravention, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on receipt of an application from the person committing such contravention either before or after the institution of any proceeding, be compounded by an officer of the Reserve Bank duly authorised by it in this behalf.

(2) Where a contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be initiated or continued, as the case may be, against the person committing such contravention under that section, in respect of the contravention so compounded.