

**French Corporate Liability**

**SECTION 2. – PENALTIES APPLICABLE TO LEGAL PERSONS**

**Sub-section 1. - Penalties for felonies and misdemeanours**

**ARTICLE 131-37**

Penalties for felonies and misdemeanours incurred by juridical persons are:

1° a fine

2° in the cases set out by law, the penalties enumerated under Article 131-39.

**ARTICLE 131-38**

The maximum amount of fine applicable to legal persons five times the sum laid down for natural persons by the law that sanctions the offence.

**ARTICLE 131-39**

Act no. 2001-504 of 12 June 2001 Article 14 Official Journal of 13 June 2001

Where a statute so provides against a legal person, a felony or misdemeanour may be punished by one or more of the following penalties:

1° dissolution, where the legal person was created to commit a felony, or, where the felony or misdemeanour is one which carries a sentence of imprisonment of three years or more, where it was diverted from its objects in order to commit them;

2° prohibition to exercise, directly or indirectly one or more social or professional activity, either permanently or for a maximum period of five years;

3° placement under judicial supervision for a maximum period of five years;

4° permanent closure or closure for up to five years of the establishment, or one or more of the establishments, of the enterprise that was used to commit the offences in question;

5° disqualification from public tenders, either permanently or for a maximum period of five years;

6° prohibition, either permanently or for a maximum period of five years, to make a public appeal for funds;

7° prohibition to draw cheques, except those allowing the withdrawal of funds by the drawer from the drawee or certified cheques, and the prohibition to use credit cards, for a maximum period of five years;

8° confiscation of the thing which was used or intended for the commission of the offence, or of the thing which is the product of it;

9° the public display of the sentence or its dissemination either by the written press or by any type of broadcasting.

The penalties under 1° and 3° above do not apply to those public bodies which may incur criminal liability. Nor do they apply to political parties or associations, or to unions. The penalty under 1° does not apply to institutions representing workers.

## **Sub-section 2. - Penalties for petty offences**

### **ARTICLE 131-40**

The penalties incurred by legal persons for petty offences are:

1° a fine

2° the penalties entailing forfeiture or restriction of rights set out under article 131-42.

These penalties do not preclude the imposition of one or more of the additional penalties set out under article 131-43.

### **ARTICLE 131-41**

The maximum amount of a fine applicable to legal persons is five times that which is applicable to natural persons by the regulation sanctioning the offence.

**ARTICLE 131-42**

In relation to any petty offence of the fifth class, a fine may be replaced by one or more of the following penalties entailing forfeiture or restriction of rights:

1° prohibition to draw cheques, except those allowing the withdrawal of funds by the drawer from the drawee or certified cheques, and the prohibition to use credit cards, for a maximum period of one year;

2° confiscation of the thing which was used or was intended for the commission of an offence, or of any thing which is the product of it.

**ARTICLE 131-43**

The regulation that sanctions a petty offence may provide for the additional penalty mentioned under 5° of article 131-16 where the offender is a legal person. In relation to petty offences of the fifth class, the regulation may also set out the additional penalty referred to under the first paragraph of Article 131-17.

**ARTICLE 131-44**

Where a petty offence is punished by one or more of the additional penalties set out under article 131-43, the court may decide to impose one or more of the additional penalties applicable alone.

**Sub-section 3. - Contents and implementation of certain penalties****ARTICLE 131-45**

The decision ordering the dissolution of a legal person entails its referral to the court competent for its liquidation.

**ARTICLE 131-46**

Act no. 1992-1336 of 16 December 1992 Articles 345, 346 and 373  
Official Journal of 23 December into force 1 March 1994

The decision to place a legal person under judicial supervision entails the appointment of a judicial officer whose remit is determined by the court. His remit may only bear upon the activity in the exercise of which, or on the occasion of which, the offence was committed. At least once every six

months, the judicial officer shall report to the penalties enforcement judge on the fulfilment of his remit.

Upon examining this report, the penalties enforcement judge may refer the matter to the court that ordered judicial supervision. The court may then either impose a new penalty, or release the legal person from judicial supervision.

#### ARTICLE 131-47

Prohibition to make a public appeal for funds entails prohibition, for the sale of any type of security, to resort any banking institutions, financial establishments or stock market companies, or to any form of advertising.

#### ARTICLE 131-48

The prohibition to exercise one or more social or professional activities entails the consequences set out under article 131-28.

The mandatory closure of one or more establishments entails the consequences set out in 131-33.

The disqualification from public tenders entails the consequences set out in article 131-34.

The prohibition to issue cheques entails the consequences set out under the first paragraph of article 131-19.

The confiscation of a thing is ordered pursuant to the conditions set out under article 131-21.

The public display or dissemination of the decision is ordered pursuant to the conditions set out under article 131-35.

#### ARTICLE 131-49

A Decree in the Conseil d'État shall determine the conditions for the implementation of the provisions of articles 131-45 to 131-47 and shall determine the conditions pursuant to which the worker's representatives are informed of the date of the hearing.