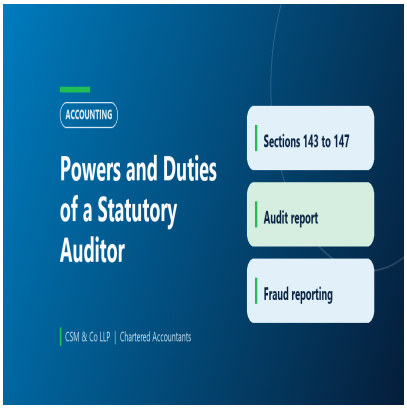

Powers and Duties of a Statutory Auditor (Sections 143 to 147): Audit Report, Fraud Reporting, Prohibited Services and Penalties

Description

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Quick summary

- An auditor has a right of access at all times to the books and vouchers and may ask officers for any information needed. The audit report must say whether the accounts give a true and fair view and whether the company has adequate internal financial controls with reference to financial statements.
- The auditor must report suspected fraud by officers or employees: to the Central Government above the prescribed amount, otherwise to the audit committee or the Board.
- An auditor cannot provide services such as bookkeeping, internal audit, financial information system design, actuarial, investment advisory, investment banking, outsourced financial services or management services.
- For contravening sections 139, 143, 144 or 145 the fine is Rs 25,000 to Rs 5 lakh or four times the remuneration, whichever is less. Wilful deception can mean up to one year in prison and a fine of up to Rs 25 lakh.

The statutory auditor is appointed by the members to protect them, so the Companies Act, 2013 gives the auditor wide powers, a long list of things that the audit report must say, and strong penalties when those duties are not performed.

Powers (section 143(1))

- A **right of access at all times** to the books of account and vouchers of the company, wherever they are kept.
- The right to require from officers of the company any **information and explanation** needed for the audit.
- A duty to inquire, among other matters, whether: loans and advances made against security are properly secured and not prejudicial to the company or its members; transactions represented only by book entries are prejudicial; shares, debentures or other securities (other than by an investment or banking company) were sold below their purchase price; loans and advances are shown as deposits; personal expenses are charged to revenue account; and, where shares are said to have been allotted for cash, cash was actually received.

- The auditor of a **holding company** has access to the records of its subsidiaries and associate companies as far as consolidation requires.
- The accounts of a **branch office** are audited either by the company's auditor or by another qualified person appointed under section 139 (or, for a branch outside India, by a local qualified person).

What the audit report must contain (section 143(2) to (4))

The auditor reports to the members on the accounts and every financial statement laid before the company in general meeting, taking account of the Act, accounting and auditing standards and the matters required by rules or by an order under section 143(11) (such as CARO). The report states whether, to the best of the auditor's information and knowledge, the accounts give a **true and fair view** of the state of affairs, profit or loss and cash flow for the year.

It must also state:

1. whether all information and explanations needed were obtained, and if not, the details and effect;
2. whether proper books of account have been kept, and proper returns received from branches not visited;
3. how a separate branch auditor's report was dealt with;
4. whether the balance sheet and profit and loss account agree with the books and returns;
5. whether the financial statements comply with the accounting standards;
6. observations on financial transactions or matters with an adverse effect on the company's functioning;
7. whether any director is disqualified under section 164(2);
8. any qualification, reservation or adverse remark on the maintenance of accounts;
9. whether the company has **adequate internal financial controls with reference to financial statements** and the operating effectiveness of those controls; and
10. such other matters as are prescribed.

Where any item is answered in the negative or with a qualification, the report must give the reasons.

Every auditor must comply with the auditing standards (section 143(9)); until the Central Government notifies standards on the recommendation of ICAI, the standards specified by ICAI are deemed to be the standards.

Reporting fraud (section 143(12) and (15))

If, in the course of duties, the auditor has reason to believe that an offence of fraud involving the prescribed amount is being or has been committed in the company by its officers or employees, the auditor reports it to the Central Government within the prescribed time and manner. For a fraud below the prescribed amount, the report goes to the audit committee (or to the Board, where there is no audit committee). The company must disclose such frauds, reported to the committee or Board but not to the Government, in the Board's report. A report made in good faith is not a breach of any other duty (section 143(13)). The same section applies to cost accountants doing cost audit and company secretaries doing secretarial audit.

Penalty for failing to report: Rs 5 lakh in a listed company, and Rs 1 lakh in any other company. The prescribed amount, time and form are in the Companies (Audit and Auditors) Rules, 2014, so check the current figures there.

Services an auditor cannot render (section 144)

An auditor may provide other services only if the Board or audit committee approves them, and never these, directly or indirectly, to the company, its holding company or its subsidiary: accounting and bookkeeping; internal audit; design and implementation of any financial information system; actuarial services; investment

advisory services; investment banking services; outsourced financial services; management services; and any other prescribed service. “Directly or indirectly” includes services through relatives, partners, a parent, subsidiary or associate entity, or any entity in which the auditor or a partner has significant influence or control, or whose name or brand is used. An auditor who renders any such service is also disqualified under section 141(3)(i).

Signing the report (section 145)

The auditor signs the report, and signs or certifies any other document of the company, in accordance with section 141(2) (only partners who are chartered accountants sign for a firm). Qualifications, observations or adverse comments on financial transactions in the report are read before the company in general meeting and open to inspection by any member.

Penalties (section 147)

Who and what	Consequence
Company contravening sections 139 to 146	Fine of Rs 25,000 to Rs 5 lakh; every officer in default, Rs 10,000 to Rs 1 lakh
Auditor contravening section 139, 143, 144 or 145	Fine of Rs 25,000 to Rs 5 lakh, or four times the remuneration, whichever is less
Auditor acting knowingly or wilfully to deceive the company, shareholders, creditors or tax authorities	Imprisonment up to one year and fine of Rs 50,000 to Rs 25 lakh, or eight times the remuneration, whichever is less
Auditor convicted under section 147(2)	Refund of remuneration and damages for loss caused by incorrect or misleading statements in the audit report (to the company, statutory bodies, members or creditors)
Audit firm, where partners acted fraudulently	The partners and the firm are jointly and severally liable; for criminal liability other than fine, only the partners concerned

The Tribunal can also direct a change of auditor where the auditor has acted fraudulently or colluded in fraud, and the auditor is barred from appointment for five years under section 140(5).

Points to check

- The amount above which fraud goes to the Central Government, and the time and form of reporting, are set by the Rules and can change.
- Listed companies and other classes face further reporting duties from the Companies (Auditor’s Report) Order and SEBI rules, which this post does not cover.
- The text above follows the Companies Act as published on India Code, including its amendments up to the footnotes in that edition.

Frequently asked questions

What are the main powers of a company auditor?

A right of access at all times to the books of account and vouchers, wherever kept, the right to require information and explanations from officers, and, for a holding company's auditor, access to the records of subsidiaries and associates for consolidation.

What must the audit report state?

Whether the accounts give a true and fair view, whether all information was obtained, whether proper books were kept, whether the balance sheet and profit and loss account agree with the books, whether the financial statements comply with accounting standards, adverse observations, director disqualification, qualifications on accounts and adequacy and operating effectiveness of internal financial controls.

Does the auditor have to report fraud?

Yes. If the auditor has reason to believe that an offence of fraud involving the prescribed amount is being or has been committed by officers or employees, it is reported to the Central Government. Smaller frauds are reported to the audit committee or the Board, and the company must disclose them in the Board's report.

Which services is an auditor barred from providing?

Accounting and bookkeeping, internal audit, design and implementation of financial information systems, actuarial services, investment advisory, investment banking, outsourced financial services, management services and any other service prescribed, whether direct or indirect, to the company, its holding or its subsidiary.

What is the penalty if an auditor fails to report fraud?

A penalty of Rs 5 lakh for a listed company and Rs 1 lakh for any other company.

Can an auditor be held liable to refund fees?

Yes. On conviction under section 147(2) the auditor must refund the remuneration received and pay damages for loss caused by incorrect or misleading statements in the audit report.

Official sources

- India Code: The Companies Act, 2013 (sections 143 to 147)

- Ministry of Corporate Affairs

Related reading

- Appointment of Auditor under Section 139 of the Companies Act, 2013: Term, Rotation, First Auditor, Casual Vacancy and Removal

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