

IBC (Amendment) Act, 2020 (No. 1 OF 2020)
{As assented by President on 13th March 2020}
[All provisions effective from 28th day of December, 2019]

EXECUTIVE SUMMARY OF AMENDMENTS

Serial No	Section no. of this Amendment Act	Principal Section amended	New Section Inserted	Description of Section
	1	Short title and commencement		
1	2	5 (12) & 5(15)		Definition of insolvency commencement date and Interim Finance
2	3	7		Initiation of corporate insolvency resolution process by financial creditor
3	4	11		Persons not entitled to make application
4	5	14		Moratorium
5	6	16		Appointment and tenure of interim resolution professional
6	7	21		Committee of creditors
7	8	23		Resolution professional to conduct corporate insolvency resolution process
8	9	29A		Persons not eligible to be resolution applicant
9	10		32A	Liability for prior offences, etc.
10	11	227		Power of Central Government to notify financial sector providers etc.
11	12	239		Power to make rules
12	13	240		Power to make regulations
13	14	Repeal & Saving of The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019		



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1. AMENDMENT OF SECTION 5

Clause (12) of Section 5
Insolvency commencement date

“Insolvency commencement date” means the date of admission of an application for initiating corporate insolvency resolution process by the Adjudicating Authority under sections 7, 9 or section 10, as the case may be:

¹~~[Provided that where the interim resolution professional is not appointed in the order admitting application under section 7, 9 or 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudicating Authority]~~

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¹Omitted by sec.2(i)

2. AMENDMENT OF SECTION 5

Clause (15) of Section 5
Interim finance

“Interim finance” means any financial debt raised by the resolution professional during the insolvency resolution process period ²**[and such other debt as may be notified]**

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²inserted by sec.2(ii)



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3. AMENDMENT OF SECTION 7

Initiation of corporate insolvency resolution process by financial creditor.

(1) A financial creditor either by itself or jointly with other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.

³["Provided that for the financial creditors, referred to in clauses (a) and (b) of sub-section (6A) of section 21, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class or not less than ten per cent. of the total number of such creditors in the same class, whichever is less:

Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent. of the total number of such allottees under the same real estate project, whichever is less:

Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first and second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, such application shall be modified to comply with the requirements of the first or second proviso within thirty days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission.".]

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³inserted by sec.3



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Explanation. - For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.

(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.

(3) The financial creditor shall, along with the application furnish -

- (a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;
- (b) the name of the resolution professional proposed to act as an interim resolution professional; and
- (c) any other information as may be specified by the Board.

(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3):

Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.

(5) Where the Adjudicating Authority is satisfied that –

- (a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or
- (b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:



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Provided that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the applicant to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority.

(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5).

(7) The Adjudicating Authority shall communicate-

- (a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;
- (b) the order under clause (b) of sub-section (5) to the financial creditor, within seven days of admission or rejection of such application, as the case may be.

4. AMENDMENT OF SECTION 11

Persons not entitled to make application. -

The following persons shall not be entitled to make an application to initiate corporate insolvency resolution process under this Chapter, namely: -

- (a) a corporate debtor undergoing a corporate insolvency resolution process; or
- (b) a corporate debtor having completed corporate insolvency resolution process twelve months preceding the date of making of the application; or
- (c) a corporate debtor or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter; or
- (d) a corporate debtor in respect of whom a liquidation order has been made.

⁴[Explanation-I]

For the purposes of this section, a corporate debtor includes a corporate applicant in respect of such corporate debtor.



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⁴[Explanation II

For the purposes of this section, it is hereby clarified that nothing in this section shall prevent a corporate debtor referred to in clauses (a) to (d) from initiating corporate insolvency resolution process against another corporate debtor.]

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⁴*Explanation numbered as Explanation I and after Explanation I as so numbered, the Explanation II inserted by sec.4*

5. AMENDMENT OF SECTION 14

Moratorium

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.



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⁵[Explanation

For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period]

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

⁶**[(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified]**

(3) The provisions of sub-section (1) shall not apply to —

⁷~~[(a) such transaction as may be notified by the Central Government in consultation with any financial regulator;~~ such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority];

(b) a surety in a contract of guarantee to a corporate debtor.]

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⁵ inserted by sec.5(a) | ⁶ inserted by sec.5(b) | ⁷ substituted by sec. 5(c)



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(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

6. AMENDMENT OF SECTION 16

Appointment and tenure of interim resolution professional

(1) The Adjudicating Authority shall appoint an interim resolution professional ⁸~~[within fourteen days from the insolvency commencement date on the insolvency commencement date]~~.

(2) Where the application for corporate insolvency resolution process is made by a financial creditor or the corporate debtor, as the case may be, the resolution professional, as proposed respectively in the application under section 7 or section 10, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(3) Where the application for corporate insolvency resolution process is made by an operational creditor and-

(a) no proposal for an interim resolution professional is made, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional;

(b) a proposal for an interim resolution professional is made under sub-section (4) of section 9, the resolution professional as proposed, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

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⁸ *substituted by sec. 6*



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(4) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (3), recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(5) The term of the interim resolution professional shall continue till the date of appointment of the resolution professional under section 22.

7. AMENDMENT OF SECTION 21

Committee of creditors

(1) The interim resolution professional shall after collation of all claims received against the corporate debtor and determination of the financial position of the corporate debtor, constitute a committee of creditors.

(2) The committee of creditors shall comprise all financial creditors of the corporate debtor:

Provided that a financial creditor or the authorised representative of the financial creditor referred to in sub-section (6) or sub-section (6A) or sub-section (5) of section 24, if it is a related party of the corporate debtor, shall not have any right of representation, participation or voting in a meeting of the committee of creditors:

Provided further that the first proviso shall not apply to a financial creditor, regulated by a financial sector regulator, if it is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares ⁹ **[or completion of such transactions as may be prescribed]**, prior to the insolvency commencement date.

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⁹ inserted by sec 7



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(3) Subject to sub-sections (6) and (6A), where] the corporate debtor owes financial debts to two or more financial creditors as part of a consortium or agreement, each such financial creditor shall be part of the committee of creditors and their voting share shall be determined on the basis of the financial debts owed to them.

(4) Where any person is a financial creditor as well as an operational creditor, -
 (a) such person shall be a financial creditor to the extent of the financial debt owed by the corporate debtor, and shall be included in the committee of creditors, with voting share proportionate to the extent of financial debts owed to such creditor;
 (b) such person shall be considered to be an operational creditor to the extent of the operational debt owed by the corporate debtor to such creditor.

(5) Where an operational creditor has assigned or legally transferred any operational debt to a financial creditor, the assignee or transferee shall be considered as an operational creditor to the extent of such assignment or legal transfer.

(6) Where the terms of the financial debt extended as part of a consortium arrangement or syndicated facility provide for a single trustee or agent to act for all financial creditors, each financial creditor may-

- (a) authorise the trustee or agent to act on his behalf in the committee of creditors to the extent of his voting share;
- (b) represent himself in the committee of creditors to the extent of his voting share;
- (c) appoint an insolvency professional (other than the resolution professional) at his own cost to represent himself in the committee of creditors to the extent of his voting share; or
- (d) exercise his right to vote to the extent of his voting share with one or more financial creditors jointly or severally.

(6A) Where a financial debt—

(a) is in the form of securities or deposits and the terms of the financial debt provide for appointment of a trustee or agent to act as authorised representative for all the financial creditors, such trustee or agent shall act on behalf of such financial creditors;



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(b) is owed to a class of creditors exceeding the number as may be specified, other than the creditors covered under clause (a) or sub-section (6), the interim resolution professional shall make an application to the Adjudicating Authority along with the list of all financial creditors, containing the name of an insolvency professional, other than the interim resolution professional, to act as their authorised representative who shall be appointed by the Adjudicating Authority prior to the first meeting of the committee of creditors;

(c) is represented by a guardian, executor or administrator, such person shall act as authorised representative on behalf of such financial creditors,

and such authorised representative under clause (a) or clause (b) or clause (c) shall attend the meetings of the committee of creditors, and vote on behalf of each financial creditor to the extent of his voting share.

(6B) The remuneration payable to the authorised representative-

(i) under clauses (a) and (c) of sub-section (6A), if any, shall be as per the terms of the financial debt or the relevant documentation; and

(ii) under clause (b) of sub-section (6A) shall be as specified which shall be form part of the insolvency resolution process costs.

(7) The Board may specify the manner of voting and the determining of the voting share in respect of financial debts covered under sub-sections (6) and (6A).

(8) Save as otherwise provided in this Code, all decisions of the committee of creditors shall be taken by a vote of not less than fifty-one per cent. of voting share of the financial creditors:

Provided that where a corporate debtor does not have any financial creditors, the committee of creditors shall be constituted and shall comprise of such persons to exercise such functions in such manner as may be specified.

(9) The committee of creditors shall have the right to require the resolution professional to furnish any financial information in relation to the corporate debtor at any time during the corporate insolvency resolution process.



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(10) The resolution professional shall make available any financial information so required by the committee of creditors under sub-section (9) within a period of seven days of such requisition.

8. AMENDMENT OF SECTION 23

Resolution professional to conduct corporate insolvency resolution process

(1) Subject to section 27, the resolution professional shall conduct the entire corporate insolvency resolution process and manage the operations of the corporate debtor during the corporate insolvency resolution process period:

10 ~~[Provided that the resolution professional shall, if the resolution plan under sub-section (6) of section 30 has been submitted, continue to manage the operations of the corporate debtor after the expiry of the corporate insolvency resolution process period until an order is passed by the Adjudicating Authority under section 31~~ **Provided that the resolution professional shall continue to manage the operations of the corporate debtor after the expiry of the corporate insolvency resolution process period, until an order approving the resolution plan under sub-section (1) of section 31 or appointing a liquidator under section 34 is passed by the Adjudicating Authority].**

(2) The resolution professional shall exercise powers and perform duties as are vested or conferred on the interim resolution professional under this Chapter.

(3) In case of any appointment of a resolution professional under sub-sections (4) of section 22, the interim resolution professional shall provide all the information, documents and records pertaining to the corporate debtor in his possession and knowledge to the resolution professional.

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10 *substituted by sec.8*



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9. AMENDMENT OF SECTION 29A

Persons not eligible to be resolution applicant

A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person—

- (a) is an undischarged insolvent;
- (b) is a wilful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
- (c) at the time of submission of the resolution plan has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949) 1[or the guidelines of a financial sector regulator issued under any other law for the time being in force,] and at least a period of one year has lapsed from the date of such classification till the date of commencement of the corporate insolvency resolution process of the corporate debtor:

Provided that the person shall be eligible to submit a resolution plan if such person makes payment of all overdue amounts with interest thereon and charges relating to non-performing asset accounts before submission of resolution plan:

Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.



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Explanation I.- For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares ¹¹**[or completion of such transactions as may be prescribed]**, prior to the insolvency commencement date.

Explanation II.— For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code.

(d) has been convicted for any offence punishable with imprisonment –

(i) for two years or more under any Act specified under the Twelfth Schedule; or

(ii) for seven years or more under any law for the time being in force:

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause(iii) of Explanation I;

(e) is disqualified to act as a director under the Companies Act, 2013 (18 of 2013):

Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of Explanation I;

(f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;

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¹¹*inserted by sec 9(i)*



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(g) has been a promoter or in the management or control of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code:

Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;

(h) has executed a guarantee in favour of a creditor in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code 4[and such guarantee has been invoked by the creditor and remains unpaid in full or part;

(i) is subject to any disability, corresponding to clauses (a) to (h), under any law in a jurisdiction outside India; or

(j) has a connected person not eligible under clauses (a) to (i).

Explanation- I — For the purposes of this clause, the expression "connected person" means—

(i) any person who is the promoter or in the management or control of the resolution applicant; or

(ii) any person who shall be the promoter or in management or control of the business of the corporate debtor during the implementation of the resolution plan; or

(iii) the holding company, subsidiary company, associate company or related party of a person referred to in clauses (i) and (ii):

Provided that nothing in clause (iii) of Explanation I shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:



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Provided further that the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares ¹²**[or completion of such transactions as may be prescribed]**, prior to the insolvency commencement date;

Explanation II—For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:

- (a) a scheduled bank;
- (b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;
- (c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999 (42 of 1999);
- (d) an asset reconstruction company register with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (e) an Alternate Investment Fund registered with Securities and Exchange Board of India;
- (f) such categories of persons as may be notified by the Central Government.

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¹²*inserted by sec 9(ii)*



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10. INSERTION OF NEW SECTION 32A (AFTER SECTION 32)

13 [Liability for prior offences, etc.

(1) Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the liability of a corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease, and the corporate debtor shall not be prosecuted for such an offence from the date the resolution plan has been approved by the Adjudicating Authority under section 31, if the resolution plan results in the change in the management or control of the corporate debtor to a person who was not—

- (a) a promoter or in the management or control of the corporate debtor or a related party of such a person; or**
- (b) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court:**

Provided that if a prosecution had been instituted during the corporate insolvency resolution process against such corporate debtor, it shall stand discharged from the date of approval of the resolution plan subject to requirements of this sub-section having been fulfilled:

Provided further that every person who was a "designated partner" as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008, or an "officer who is in default", as defined in clause (60) of section 2 of the Companies Act, 2013, or was in any manner in charge of, or responsible to the corporate debtor for the conduct of its business or associated with the corporate debtor in any manner and who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the investigating authority, shall continue to be liable to be prosecuted and punished for such an offence committed by the corporate debtor notwithstanding that the corporate debtor's liability has ceased under this sub-section.



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(2) No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the corporate debtor, where such property is covered under a resolution plan approved by the Adjudicating Authority under section 31, which results in the change in control of the corporate debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not—

(i) a promoter or in the management or control of the corporate debtor or a related party of such a person; or

(ii) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court.

Explanation. —For the purposes of this sub-section, it is hereby clarified that, —

(i) an action against the property of the corporate debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the corporate debtor;

(ii) nothing in this sub-section shall be construed to bar an action against the property of any person, other than the corporate debtor or a person who has acquired such property through corporate insolvency resolution process or liquidation process under this Code and fulfils the requirements specified in this section, against whom such an action may be taken under such law as may be applicable.



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(3) Subject to the provisions contained in sub-sections (1) and (2), and notwithstanding the immunity given in this section, the corporate debtor and any person who may be required to provide assistance under such law as may be applicable to such corporate debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the corporate insolvency resolution process.]

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13 *inserted by sec 10*

11. AMENDMENT OF SECTION 227

Power of Central Government to notify financial sector providers etc.

Notwithstanding anything to the contrary **14** ~~[examined in this Code contained in this Code]~~ or any other law for the time being in force, the Central Government may, if it considers necessary, in consultation with the appropriate financial sector regulators, notify financial service providers or categories of financial service providers for the purpose of their insolvency and liquidation proceedings, which may be conducted under this Code, in such manner as may be prescribed.

15 **[Explanation. —For the removal of doubts, it is hereby clarified that the insolvency and liquidation proceedings for financial service providers or categories of financial service providers may be conducted with such modifications and in such manner as may be prescribed]**

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14 *substituted by sec 11(i)*

15 *inserted by sec 11(ii)*



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12. AMENDMENT OF SECTION 239

Power to make rules

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Code.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for any of the following matters, namely: —

(a) any other instrument which shall be a financial product under clause (15) of section 3;

(b) other accounting standards which shall be a financial debt under clause (d) of sub-section (8) of section 5;

(c) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by financial creditor under sub-section (2) of section 7;

(d) the form and manner in which demand notice may be made and the manner of delivery thereof to the corporate debtor under sub-section (1) of section 8;

(e) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by operational creditor under sub-section (2) of section 9;

(ea) other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information under clause (e) of sub-section (3) of section.

(f) the form, the manner and the fee for making application before the Adjudicating Authority for initiating corporate insolvency resolution process by corporate applicant under sub-section (2) of section 10;

16 **["(fa) the transactions under the second proviso to sub-section (2) of section 21;**
(fb) the transactions under Explanation I to clause (c) of section 29A;
(fc) the transactions under the second proviso to clause (j) of section 29A];

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16 *inserted by sec 12*



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- (g) the persons who shall be relative under clause (ii) of the Explanation to sub-section (1) of section 79;
- (h) the value of unencumbered single dwelling unit owned by the debtor under clause (e) of sub-section (13) of section 79;
- (i) the value under clause (c), and any other debt under clause (f), of sub-section (14) of section 79;
- (j) the form, the manner and the fee for making application for fresh start order under sub-section (3) of section 81;
- (k) the particulars of the debtor's personal details under clause (e) of sub-section (3) of section 81
- (l) the information and documents to support application under sub-section (3) of section 86;
- (m) the form, the manner and the fee for making application for initiating the insolvency resolution process by the debtor under sub-section (6) of section 94;
- (n) the form, the manner and the fee for making application for initiating the insolvency resolution process by the creditor under sub-section (6) of section 95;
- (o) the particulars to be provided by the creditor to the resolution professional under sub-section (2) of section 103;
- (p) the form and the manner for making application for bankruptcy by the debtor under clause (b) of sub-section (1) of section 122;
- (q) the form and the manner of the statement of affairs of the debtor under sub-section (3) of section 122;
- (r) the other information under clause (d) of sub-section (1) of section 123;
- (s) the form, the manner and the fee for making application for bankruptcy under sub-section (6) of section 123;
- (t) the form and the manner in which statement of financial position shall be submitted under sub-section (2) of section 129;
- (u) the matters and the details which shall be included in the public notice under sub-section (2) of section 130;
- (v) the matters and the details which shall be included in the notice to the creditors under sub-section (3) of section 130;
- (w) the manner of sending details of the claims to the bankruptcy trustee and other information under sub-sections (1) and (2) of section 131;



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- (x) the value of financial or commercial transaction under clause (d) of sub-section (1) of section 141;
- (y) the other things to be done by a bankrupt to assist bankruptcy trustee in carrying out his functions under clause (d) of sub-section (1) of section 150;
- (z) the manner of dealing with the surplus under sub-section (4) of section 170;
- (za) the form and the manner of proof of debt under clause (c) of sub-section (2) of section 171;
- (zb) the manner of receiving dividends under sub-section (7) of section 171;
- (zc) the particulars which the notice shall contain under sub-section (2) of section 176;
- (zd) the salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members of the Board under sub-section (5) of section 189;
- (ze) the other functions of the Board under clause (u) of sub-section (1) of section 196;
- (zf) the other funds under clause (c) of sub-section (1) of section 222;
- (zg) the other purposes for which the fund shall be applied under clause (d) of sub-section (2) of section 222;
- (zh) the form in which annual statement of accounts shall be prepared under sub-section (1) of section 223;
- (zi) the purpose for which application for withdrawal of funds may be made under sub-section (3) of section 224;
- (zj) the manner of administering the fund under sub-section (4) of section 224;
- (zk) the manner of conducting insolvency and liquidation proceedings under section 227;
- (zl) the form and the time for preparing budget by the Board under section 228;
- (zm) the form and the time for preparing annual report under sub-section (1) of section 229;
- (zn) the time up to which a person appointed to any office shall continue to hold such office under clause (vi) of sub-section (2) of section 243.



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13. AMENDMENT OF SECTION 240

Power to make regulations

(1) The Board may, by notification, make regulations consistent with this Code and the rules made thereunder, to carry out the provisions of this Code.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: —

(a) the form and the manner of accepting electronic submission of financial information under sub-clause (a) of clause (9) of section 3;

(b) the persons to whom access to information stored with the information utility may be provided under sub-clause (d) of clause (9) of section 3;

(c) the other information under sub-clause (f) of clause (13) of section 3;

(d) the other costs under clause (e) of sub-section (13) of section 5;

(e) the cost incurred by the liquidator during the period of liquidation which shall be liquidation cost under sub-section (16) of section 5;

(f) the other record or evidence of default under clause (a), and any other information under clause (c), of sub-section (3) of section 7;

(h) the period under clause (a) of sub-section (3) of section 10;

(i) the supply of essential goods or services to the corporate debtor under sub-section (2) of section 14;

¹⁷ [(ia) circumstances in which supply of critical goods or services may be terminated, suspended or interrupted during the period of moratorium under sub-section (2A) of section 14]

(j) the manner of making public announcement under sub-section (2) of section 15;

(ja) the last date for submission of claims under clause (c) of sub-section (1) of section 15;

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¹⁷ inserted by sec 13



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- (k) the manner of taking action and the restrictions thereof under clause (b) of sub-section (2) of section 17;
- (l) the other persons under clause (d) of sub-section (2) of section 17;
- (m) the other matters under clause (d) of sub-section (2) of section 17;
- (n) the other matters under sub-clause (iv) of clause (a), and the other duties to be performed by the interim resolution professional under clause (g), of section 18;
- (na) the number of creditors within a class of creditors under clause (b) of sub-section (6A) of section 21;
- (nb) the remuneration payable to authorised representative under clause (ii) of the proviso to sub-section (6B) of section 21;
- (nc) the manner of voting and determining the voting share in respect of financial debts under sub-section (7) of section 21;
- (o) the persons who shall comprise the committee of creditors, the functions to be exercised such committee and the manner in which functions shall be exercised under the proviso to sub-section (8) of section 21;
- (p) the other electronic means by which the members of the committee of creditors may meet under sub-section (1) of section 24;
- (q) the manner of assigning voting share to each creditor under sub-section (7) of section 24;
- (r) the manner of conducting the meetings of the committee of creditors under sub-section (8) of section 24;
- (s) the manner of appointing accountants, lawyers and other advisors under clause (d) of sub-section (2) of section 25;
- (sa) other conditions under clause (h) of sub-section (2) of section 25;
- (t) the other actions under clause (k) of sub-section (2) of section 25;
- (u) the form and the manner in which an information memorandum shall be prepared by the resolution professional sub-section (1) of section 29;
- (v) the other matter pertaining to the corporate debtor under the Explanation to sub-section (2) of section 29;
- (w) the manner of making payment of insolvency resolution process costs under clause (a), the manner of payment of debts under clause (b), and the other requirements to which a resolution plan shall conform to under clause (d), of sub-section (2) of section 30;



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- (wa) other requirements under sub-section (4) of section 30;
- (x) the fee for the conduct of the liquidation proceedings and proportion to the value of the liquidation estate assets under sub-section (8) of section 34;
- (y) the manner of evaluating the assets and property of the corporate debtor under clause (c), the manner of selling property in parcels under clause (f), the manner of reporting progress of the liquidation process under clause (n), and the other functions to be performed under clause (o), of sub-section (1) of section 35;
- (z) the manner of making the records available to other stakeholders under sub-section (2) of section 35;
- (za) the other means under clause (a) of sub-section (3) of section 36;
- (zb) the other assets under clause (e) of sub-section (4) of section 36;
- (zc) the other source under clause (g) of sub-section (1) of section 37;
- (zd) the manner of providing financial information relating to the corporate debtor under sub-section (2) of section 37;
- (ze) the form, the manner and the supporting documents to be submitted by operational creditor to prove the claim under sub-section (3) of section 38;
- (zf) the time within which the liquidator shall verify the claims under sub-section (1) of section 39;
- (zg) the manner of determining the value of claims under section 41;
- (zh) the manner of relinquishing security interest to the liquidation estate and receiving proceeds from the sale of assets by the liquidator under clause (a), and the manner of realising security interest under clause (b) of sub-section (1) of section 52;
- (zi) the other means under clause (b) of sub-section (3) of section 52;
- (zj) the manner in which secured creditor shall be paid by the liquidator under sub-section (9) of section 52;
- (zk) the period and the manner of distribution of proceeds of sale under sub-section (1) of section 53;
- (zl) the other means under clause (a) and the other information under clause (b) of section 57;
- (zm) the conditions and procedural requirements under sub-section (2) of section 59;
- (zn) the details and the documents required to be submitted under sub-section (7) of section 95;
- (zo) the other matters under clause (c) of sub-section (3) of section 105;
- (zp) the manner and form of proxy voting under sub-section (4) of section 107;



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- (zq) the manner of assigning voting share to creditor under sub-section (2) of section 109;
- (zr) the manner and form of proxy voting under sub-section (3) of section 133;
- (zs) the fee to be charged under sub-section (1) of section 144;
- (zt) the appointment of other officers and employees under sub-section (2), and the salaries and allowances payable to, and other terms and conditions of service of, such officers and employees of the Board under sub-section (3), of section 194;
- (zu) the other information under clause (i) of sub-section (1) of section 196;
- (zv) the intervals in which the periodic study, research and audit of the functioning and performance of the insolvency professional agencies, insolvency professionals and information utilities under clause (r), and mechanism for disposal of assets under clause (t), of sub-section (1) of section 196;
- (zw) the place and the time for discovery and production of books of account and other documents under clause (i) of sub-section (3) of section 196;
- (zx) the other committees to be constituted by the Board and the other members of such committees under section 197;
- (zy) the other persons under clause (b) and clause (d) of section 200;
- (zz) the form and the manner of application for registration, the particulars to be contained therein and the fee it shall accompany under sub-section (1) of section 201;
- (zza) the form and manner of issuing a certificate of registration and the terms and conditions thereof, under sub-section (3) of section 201;
- (zzb) the manner of renewal of the certificate of registration and the fee therefor, under sub-section (4) of section 201;
- (zzc) the other ground under clause (d) of sub-section (5) of section 201;
- (zzd) the form of appeal to the National Company Law Appellate Tribunal, the period within which it shall be filed under section 202;
- (zze) the other information under clause (g) of section 204;
- (zzf) the other grounds under Explanation to section 196;
- (zzg) the setting up of a governing board for its internal governance and management under clause (e), the curriculum under clause (l), the manner of conducting examination under clause (m), of section 196;
- (zzh) the time within which, the manner in which, and the fee for registration of insolvency professional under sub-section (1) of section 207;



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(zzi) the categories of professionals or persons, the qualifications and experience and the fields under sub-section (2) of section 207 (zzj) the manner and the conditions subject to which the insolvency professional shall perform his function under clause (f) of sub-section (2) of section 208;

(zzk) the form and manner in which, and the fee for registration of information utility under sub-section (1) of section 210;

(zzl) the form and manner for issuing certificate of registration and the terms and conditions thereof, under sub-section (3) of section 210;

(zzm) the manner of renewal of the certificate of registration and the fee therefor, under sub-section (4) of section 210;

(zzn) the other ground under clause (d) of sub-section (5) of section 210;

(zzo) the form, the period and the manner of filling appeal to the National Company Law Appellate Tribunal under section 211;

(zzp) the number of independent members under section 212;

(zzq) the services to be provided by information utility and the terms and conditions under section 213;

(zzr) the form and manner of accepting electronic submissions of financial information under clause (b) and clause (c) of section 214;

(zzs) the minimum service quality standards under clause (d) of section 214;

(zzt) the information to be accessed and the manner of accessing such information under clause (f) of section 214;

(zzu) the statistical information to be published under clause (g) of section 214;

(zzv) the form, the fee and the manner for submitting or accessing information under sub-section (1) of section 215;

(zzw) the form and manner for submitting financial information and information relating to assets under sub-section (2) of section 215;

(zzx) the manner and the time within which financial information may be updated or modified or rectified under section 216;

(zzy) the form, manner and time of filing complaint under section 217;

(zzz) the time and manner of carrying out inspection or investigation under subsection (2) of section 218;

(zzza) the manner of carrying out inspection of insolvency professional agency or insolvency professional or information utility and the time for giving reply under section 219;



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(zzzb) the procedure for claiming restitution under sub-section (6), the period within which such restitution may be claimed and the manner in which restitution of amount may be made under sub-section (7) of section 220;

(zzzc) the other funds of clause (c) of sub-section (1) of section 222.

14. REPEAL AND SAVINGS

(1) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Insolvency and Bankruptcy Code, 2016, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Code, as amended by this Act.

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