

INSOLVENCY & BANKRUPTCY CODE, 2016

SI No	Section	Amendment
1	2	<p>Amended w.e.f 23.11.2017:</p> <p><i>The Revised section would read as:</i></p> <p><i>The provisions of this Code shall apply to—</i></p> <ul style="list-style-type: none"> (i) <i>any company incorporated under the Companies Act, 2013(18 of 2013) or under any previous company law;</i> (ii) <i>any other company governed by any special Act for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act;</i> (iii) <i>any Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008 (6 of 2009)</i> (iv) <i>such other body incorporated under any law for the time being in force, as the Central Government may, by notification, specify in this behalf;</i> (v) personal guarantors to corporate debtors; (vi) partnership firms and proprietorship firms; and (vii) individuals, other than persons referred to in clause (e).
2	5(25)	<p>Amended w.e.f 23.11.2017:</p> <p><i>The Revised clause would read as:</i></p> <p>"resolution applicant" <i>means a person, who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (h) of sub-section (2) of section 25</i></p>
3	5(26)	<p>Amended w.e.f 23.11.2017:</p> <p><i>The Revised clause would read as:</i></p> <p>"resolution plan" <i>means a plan proposed by resolution applicant for insolvency resolution of the corporate debtor as a going concern in accordance with Part II</i></p>
4	25	

		<p>Amended w.e.f 23.11.2017:</p> <p>Section 25 of the principal Act, in sub-section (2), for clause (h), the following clause shall be substituted.</p> <p>The Revised section would read as:</p> <p>Duties of resolution professional:</p> <p>(1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.</p> <p>(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely: -</p> <p>(a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;</p> <p>(b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;</p> <p>(c) raise interim finances subject to the approval of the committee of creditors under section 28;</p> <p>(d) appoint accountants, legal or other professionals in the manner as specified by Board;</p> <p>(e) maintain an updated list of claims;</p> <p>(f) convene and attend all meetings of the committee of creditors;</p> <p>(g) prepare the information memorandum in accordance with section 29;</p> <p>(h) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.</p> <p>(i) present all resolution plans at the meetings of the committee of creditors;</p> <p>(j) file application for avoidance of transactions in accordance with Chapter III, if any; and</p> <p>(k) such other actions as may be specified by the Board.</p>
5	29A	<p>Inserted w.e.f 23.11.2017:</p> <p>Persons not eligible to be resolution applicant:</p> <p>A person shall not be eligible to submit a resolution plan, if such person, or</p>

- any other person acting jointly or in concert with such person—
- (a) is an undischarged insolvent;
 - (b) is a willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
 - (c) 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 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;
 - (d) has been convicted for any offence punishable with imprisonment for two years or more;
 - (e) is disqualified to act as a director under the Companies Act, 2013;
 - (f) is prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities markets;
 - (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;
 - (h) has executed an enforceable 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;
 - (i) has been 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.— 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 this Explanation shall apply to—

- (A) a scheduled bank; or
- (B) an asset reconstruction company registered with the Reserve

		<p>Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; or an Alternate Investment Fund registered with the Securities and Exchange Board of India."</p>
6	30	<p>Amended w.e.f 23.11.2017:</p> <p><i>In section 30 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—</i></p> <p><i>(4) The committee of creditors may approve a resolution plan by a vote of not less than seventy-five per cent. of voting share of the financial creditors, after considering its feasibility and viability, and such other requirements as may be specified by the Board:</i></p> <p><i>Provided that the committee of creditors shall not approve a resolution plan, submitted before the commencement of the Insolvency and Bankruptcy Code Ord. 7 of (Amendment) Ordinance, 2017, where the resolution applicant is ineligible under section 29A and may require the resolution professional to invite a fresh resolution plan where no other resolution plan is available with it:</i></p> <p><i>Provided further that where the resolution applicant referred to in the first proviso is ineligible under clause (c) of section 29A, the resolution applicant shall be allowed by the committee of creditors such period, not exceeding thirty days, to make payment of overdue amounts in accordance with the proviso to clause (c) of section 29A:</i></p> <p><i>Provided also that nothing in the second proviso shall be construed as extension of period for the purposes of the proviso to sub-section (3) of section 12, and the corporate insolvency resolution process shall be completed within the period specified in that sub-section.</i></p>
7	35	<p>Amended w.e.f 23.11.2017:</p> <p><i>In section 35 of the principal Act, in sub-section (1), in clause (f), the following proviso shall be inserted, namely:—</i></p> <p><i>Provided that the liquidator shall not sell the immovable and movable property or actionable claims of the corporate debtor in liquidation to any person who is not eligible to be a resolution applicant.</i></p>