

Comprehensive Guide to  
INSOLVENCY AND  
BANKRUPTCY  
CODE, 2016

*Law and Practice*



VOLUME 2

**Ayush J. Rajani**, (FCA, LLB)  
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B L O O M S B U R Y



*Comprehensive Guide to*  
INSOLVENCY AND  
BANKRUPTCY CODE, 2016  
*Law and Practice*



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INSOLVENCY AND  
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Fourth edition  
(set of 2 volumes)

Volume 2

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FIRST AND FOREMOST, WE THANK GOD  
FOR BRINGING US WHERE WE ARE TODAY.

**DEDICATED TO**

THE STRONGEST PILLARS OF OUR LIVES

**OUR PARENTS**

WORDS CANNOT JUSTIFY THE SUPPORT YOU'VE GIVEN US.  
A BIG THANK YOU FOR EVERY SACRIFICE YOU HAVE MADE FOR US  
WHICH HAS ENABLED US TO SOAR NEW HEIGHTS!

This fourth edition is also dedicated to our parents for everything they have done and every sacrifice they have made for us and also especially to our toddler who has been supportive enough to enable us to successfully complete this edition.

Mr. Jayant D. Rajani, Mrs. Nita J Rajani, Mr. Naresh Shah (FCS, LL.B.), Mrs. Alka Shah,  
Master Riyaansh Rajani

THANK YOU

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# Acknowledgments

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This fourth Edition has been an indication of our step-by-step journey as professionals accompanied with encouragement, hardship, trust, failure and success.

We as authors, when we find ourselves experiencing a feeling of fulfilment, realize that while only our names appear on the surface a great number of people including our family members, teachers, well-wishers and our respective professional mentors have contributed towards building “us” as professionals and to accomplish this huge task.

As far as our first edition is concerned, we were extremely fortunate to get a foreword from Ld. Hon’ble Member Shri Mohan Bhaskara Pantula from the Mumbai Bench of Hon’ble NCLT.

We are privileged and deeply obliged that Hon’ble Shri Chandra Bhan Singh Member (Technical), Hon’ble NCLT, Mumbai Bench has written a foreword for the second edition of our book.

*Ayush J. Rajani:* I am greatly indebted to Mr. Percy Chhapgar (Senior Partner), Mr. Samir Gandhi (Senior Partner) of Deloitte Haskins & Sells, Mumbai, where I was groomed as a Chartered Accountant from my baby steps as an article trainee. Their zeal for perfection, passion and conviction always inspired me to do more and push myself out of the “*comfort zone*”.

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We also acknowledge Miss Alka Adatia for introducing us to the Bloomsbury team in 2019 with whom we are connected till date and have got this opportunity once again to present our one more edition under the IBC laws in India.

We appreciate the support of Mr. Nipun Singhvi (B.Com, BCCD, LLB, LLM, FCA, LCS, M&A – IIM(A), Certified Forensic – IFRS Forensic– Bank Audit (ICAI)). A member of Word Bank, Insolvency Group on “Train the Trainers” jointly with IBBI for training insolvency professionals. He has been a speaker in more than 1000 seminars for ICAI, ICSI and various financial institutions. He has been involved in some of the most talked about cases in India viz. Essar, Swiss Ribbons and Citrus Check Inns to name a few. We thank him for his constant inflow of valuable inputs and technical advice not just for the first edition but throughout the last seven years, since the inception of the Code and wish him all the luck in scaling new heights!

With deep gratitude we would like to thank Mr. Toby Thomas (Business Head) and the entire Bloomsbury team for providing their excellent support during script development and we are grateful for their confidence in us.

We encourage our readers to provide any feedback at [feedback@akradvisors.com](mailto:feedback@akradvisors.com) so that the same can be duly considered in the next edition.

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She also holds a Bachelor's degree in Commerce from Mumbai University–HR College.

# Foreword to the second edition

---

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01 March 2021

## FOREWORD TO THIS SECOND EDITION

In this pioneering work on the Commentary to Insolvency and Bankruptcy Code, 2016 the authors, Mrs. Khushboo Shah Rajani (A.C.A., LL.B.) and Mr. Ayush J. Rajani (F.C.A.) of AKR Advisors LLP, have put in great efforts to compile and explain the law and the procedure to be practiced before the Hon'ble NCLT and Hon'ble NCLAT while dealing with the provisions under the Insolvency and Bankruptcy Code, 2016.

NCLT and NCLAT are specialized tribunals provided under the Companies Act 2013, as a mechanism for speedy adjudication of matters under the Insolvency and Bankruptcy Code, 2016.

I feel this book has dealt with the most pertinent issues and also incorporates a chapter dedicated to understanding core issues as well as recent landmark jurisprudence on the subject matter.

This book admirably deals with each area of practice under the Insolvency and Bankruptcy Code, 2016 on conceptual basis as also its practical nuances and is up-to-date in respect of various rules and regulations that have been notified so far.

Given their professional background spanning over twelve years, Mrs. Khushboo Shah Rajani and Mr. Ayush J. Rajani are most ably placed to author this book and needs to be complimented for their efforts. I am sure this publication will prove to be a valuable companion for all stakeholders concerned with Insolvency Law including the judges, practicing professionals, lawyers and insolvency professionals.

I wish the authors, the book and the readers – all the best!

SD/-

(Chandra Bhan Singh)



# Foreword to the first edition

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In this pioneering work on the Guide to Insolvency and Bankruptcy Code, 2016 for professionals, the authors, Mrs. Khushboo Shah Rajani (A.C.A., LL.B.) and Mr. Ayush J. Rajani (F.C.A.) of AKR Advisors LLP, have put in great efforts to compile and explain the law and the procedure to be practiced in the Courts while dealing with the provisions under the Insolvency and Bankruptcy Code, 2016.

National Company Law Tribunal & National Company Law Appellate Tribunal are specialized tribunals provided under the Companies Act 2013, as mechanism for speedy adjudication of matters under the Insolvency and Bankruptcy Code, 2016.

I feel this book has dealt with the most pertinent issues, observations and highlights grey areas that will assist all concerned in understanding the perspective of the Insolvency and Bankruptcy Code, 2016.

This book admirably deals with each area of practice under the Insolvency and Bankruptcy Code, 2016 on conceptual basis as also its practical nuances.

Given their professional background, Mrs. Khushboo Shah Rajani and Mr. Ayush J. Rajani are most ably placed to author this book and needs to be complimented for their efforts and thought- provoking questions. I am sure this publication will prove to be a valuable companion for all those concerned with Insolvency Law including the judges, lawyers and insolvency professionals.

I wish them, the book and the readers – all the best!

SD/-

Mr. Bhaskara Pantula Mohan  
Member (Judicial),  
Hon'ble NCLT, Mumbai

07 January 2020





# Preface

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Introduction of Insolvency and Bankruptcy Code, 2016 was speedy and revolutionary and it made its mark immediately within the Indian business and financial environment. The Code ushered in sweeping changes in the financial sector and shocked many defaulting corporates by its impeccable focus and thrust on “creditor-in-charge” mechanism rather than “debtor centric”.

The insolvency legislation has seen a major overhaul, since its introduction in December 2016, with constant amendments and improvisations all the way. The legislation has made earnest attempts to keep an open mind and eye for detail which has led to such constant amendments in its attempt to iron out confusions emanating from the Code.

This book is a passionate work coupled with in-depth research on various issues and provides an insight on grey areas encountered by the authors during their professional practice as “Process Advisors” and practitioners under the insolvency law. An attempt has been made to provide clarity with purposive meaning to the complex issues involved.

This edition takes into considerations all the amendments that have been introduced, including the Insolvency and Bankruptcy Code (Amendment) Act, 2021 as also the measures which the central government have undertaken to combat the loss of business suffered by companies due to the COVID-19 pandemic thereby giving them the protection required from initiation of corporate insolvency resolution process under the Code. The book has its utility to a large section of stakeholders especially legal practitioners, insolvency professionals and lenders and could also come in handy for hon’ble judges of various courts.

We are confident that this book will provide interpretative guidance and will be a great support to law practitioners, insolvency professionals, lawyers, other professionals such as chartered accountants, company secretaries, cost accountants, corporate lawyers, financial institutions, bankers and lenders, judges, judicial officers and students.

1 May 2024

Ayush J. Rajani  
Khushboo Shah Rajani  
Mumbai.  
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# Contents at a glance

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<i>Acknowledgments</i>	vii
<i>About the authors</i>	ix
<i>Foreword to the second edition</i>	xi
<i>Foreword to the first edition</i>	xiii
<i>Preface</i>	xv
<i>Table of contents (Volume 2)</i>	xxi
<i>Table of cases</i>	xxxiii
<i>Acronyms</i>	liii

## Volume 1

1. The Insolvency and Bankruptcy Code, 2016.....	A-1
2. Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.....	R-1.1
3. IBBI (Salary, Allowances and other Terms and Conditions of Service of Chairperson and members) Rules, 2016.....	R-2.1
4. Companies (Transfer of Pending Proceedings) Rules, 2016 .....	R-3.1
5. Companies (Registered Valuers and Valuation) Rules, 2017.....	R-4.1
6. IBBI (Annual Report) Rules, 2018.....	R-5.1
7. IBBI (Form of Annual Statement of Accounts) Rules, 2018.....	R-6.1
8. IBBI (Medical facility to chairperson and Whole -Time Members) Scheme Rules, 2019.....	R-7.1
9. Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 .....	R-8.1
10. Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019.....	R-9.1
11. Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019.....	R-10.1

12. IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.....	R-11.1
13. IBBI (Insolvency Professional Agencies) Regulations, 2016.....	R-12.1
14. IBBI (Insolvency Professionals) Regulations, 2016.....	R-13.1
15. IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.....	R-14.1
16. IBBI (Liquidation Process) Regulations, 2016.....	R-15.1
17. IBBI (Engagement of Research Associates and Consultants) Regulations, 2017.....	R-16.1
18. IBBI (Procedure for Governing Board Meetings) Regulations, 2017.....	R-17.1
19. IBBI (Advisory Committee) Regulations, 2017.....	R-18.1
20. IBBI (Information Utilities) Regulations, 2017.....	R-19.1
21. IBBI (Voluntary Liquidation Process) Regulations, 2017.....	R-20.1
22. IBBI (Inspection and Investigation) Regulations, 2017.....	R-21.1
23. IBBI (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017.....	R-22.1
24. IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017.....	R-23.1
25. IBBI (Employees' Service) Regulations, 2017.....	R-24.1
26. IBBI (Mechanism for Issuing Regulations) Regulations, 2018.....	R-25.1
27. IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.....	R-26.1
28. IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019.....	R-27.1
29. Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.....	R-28.1
30. Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021.....	R-29.1
31. Notifications.....	Not 1.1

## Volume 2

Chapter 1 The evolution of insolvency laws in India and its impact so far .....	1.1
Chapter 2 Initiation, process and procedure of CIRP under the Code .....	2.1
Chapter 3 Liquidation process, distribution of assets and the consequential dissolution of corporate debtor, PUE transactions.....	3.1

Chapter 3A Pre-packaged Insolvency Resolution Process - resolution for stress in MSME's .....	3A.1
Chapter 4 Fast Track Insolvency .....	4.1
Chapter 5 Voluntary liquidation of corporate persons .....	5.1
Chapter 6 Adjudication, appeals and fraudulent transactions .....	6.1
Chapter 7 Offences and penalties .....	7.1
Chapter 8 Fresh start process, insolvency and bankruptcy of individuals and partnership firms .....	8.1
Chapter 9 Insolvency Professionals (IPs), Insolvency Professionals Agency (IPAs), Insolvency and Bankruptcy Board of India (IBBI) and Information Utilities (IU) .....	9.1
Chapter 10 The next wave – cross border, group insolvency and mediation .....	10.1
Chapter 11 Covid blow to insolvency regime in India.....	11.1
Chapter 12 Understanding core issues under Insolvency and Bankruptcy Code, 2016.....	12.1
Chapter 13 IBBI Circulars.....	13.1
Chapter 14 IBBI Guidelines.....	14.1
Chapter 15 NCLT & NCLAT Benches .....	15.1
Chapter 16 Jurisprudence on Insolvency and Bankruptcy Code.....	16.1



# Table of contents (Volume 2)

---

<i>Acknowledgments</i>	vii
<i>About the authors</i>	ix
<i>Foreword to the second edition</i>	xi
<i>Foreword to the first edition</i>	xiii
<i>Preface</i>	xv
<i>Contents at a glance</i>	xxvii
<i>Table of cases</i>	xxxiii
<i>Acronyms</i>	liii

## Volume 2

### Chapter 1 The evolution of insolvency laws in India and its impact so far

1.1	The evolution of the bankruptcy law in India - global outcry and need for insolvency laws.....	1.2
1.2	Historical development of the insolvency & bankruptcy law in India.....	1.3
1.2.1	Era prior to 1985.....	1.3
1.2.2	Developments in 1990's.....	1.4
1.2.3	Developments post year 2000 upto 2014.....	1.5
1.2.4	Key government committees on bankruptcy reforms so far.....	1.6
1.2.5	The evolution of insolvency law in India.....	1.7
1.2.6	Reports of various committees under insolvency law in India.....	1.13
1.3	Impact of IBC so far.....	1.16
1.3.1	Sector wise impact of Insolvency and Bankruptcy Code, 2016.....	1.17
1.3.2	Amendments in other statutes pursuant to enactment of Insolvency and Bankruptcy Code, 2016.....	1.19
1.3.3	Economic impact.....	1.26
1.4	Preamble of the Code as it exists today.....	1.27
1.5	Introduction to the Code.....	1.28
1.6	Difference between a Code and an Act.....	1.28
1.6.1	An overview of the Code.....	1.29

1.7	Pillars of Insolvency and Bankruptcy Code.....	1.31
1.7.1	Insolvency and Bankruptcy Board of India (IBBI).....	1.32
1.7.2	Insolvency Professionals (IPs).....	1.32
1.7.3	Adjudicating Authority (AA).....	1.35
1.7.4	Information Utility (IU).....	1.38

## **Chapter 2 Initiation, process and procedure of CIRP under the Code**

2.1	Application for initiation of Corporate Insolvency Resolution Process.....	2.2
2.1.1	Introduction.....	2.2
2.2	Legal framework.....	2.4
2.2.1	Section 6: Persons who may initiate Corporate Insolvency Resolution Process .....	2.6
2.2.2	Section 7: Initiation of Corporate Insolvency Resolution Process by Financial Creditor .....	2.7
2.2.3	Section 8: Insolvency Resolution by Operational Creditor.....	2.13
2.2.4	Section 9: Application for initiation of Corporate Insolvency Resolution Process by operational creditor.....	2.15
2.2.5	Section 10: Initiation of Corporate Insolvency Resolution Process by Corporate Applicant.....	2.19
2.2.6	Section 10A: Suspension of initiation of corporate insolvency resolution process.....	2.25
2.2.7	Section 11: Persons not entitled to make application.....	2.26
2.2.8	Section 11A: Disposal of applications under section 54C and under section 7 or section 9 or section 10.....	2.27
2.2.9	Other Concerns to be considered while contemplating admission of application for initiating CIRP.....	2.28
2.2.10	Section 12: Time-limit for completion of insolvency resolution process .....	2.32
2.2.11	Section 12A. Withdrawal of application admitted under section 7 or section 9 or section 10.....	2.38
2.2.12	Section 13: Declaration of moratorium and public announcement. ....	2.41
2.2.13	Section 14. Moratorium .....	2.41
2.2.14	Section 15. Public announcement of Corporate Insolvency Resolution Process.) within T + 3 days).....	2.51
2.2.15	Section 16. Appointment and tenure of Interim Resolution Professional.....	2.52
2.2.16	Section 17. Management of affairs of corporate debtor by Interim Resolution Professional.....	2.54
2.2.17	Section 18: Duties of Interim Resolution Professional .....	2.56
2.2.18	Section 19. - Personnel to extend co-operation to Interim Resolution Professional.....	2.57
2.2.19	Section 20. - Management of operations of corporate debtor as going concern.....	2.59



2.2.20	Section 21. - Committee of creditors ) within T + 23 days).....	2.61
2.2.21	Section 22. Appointment of Resolution Professional.....	2.65
2.2.22	Section 23. Resolution Professional to conduct corporate insolvency resolution process.....	2.67
2.2.23	Section 24. Meeting of committee of creditors .....	2.69
2.2.24	Section 25. Duties of Resolution Professional .....	2.70
2.2.25	Section 25A. Rights and duties of authorised representative of financial creditors.....	2.71
2.2.26	Section 26. Application for avoidance of transactions not to affect proceedings .....	2.72
2.2.27	Section 27. Replacement of Resolution Professional by committee of creditors .....	2.73
2.2.28	Section 28. Approval of committee of creditors for certain actions.....	2.74
2.2.29	Synopsis of the relevant regulations to guide the IRP during his term of first 30 days of corporate insolvency and resolution process.....	2.75
2.2.30	Section 29. Preparation of information memorandum .....	2.77
2.2.31	Section 29A. Persons not eligible to be resolution applicant .....	2.79
2.2.32	Section 30. Submission of Resolution Plan .....	2.87
2.2.33	Section 31. Approval of resolution plan.....	2.96
2.2.34	Section 32: Appeal.....	2.99
2.2.35	Section 32A. Liability for prior offences .....	2.100

### **Chapter 3      Liquidation process, distribution of assets and the consequential dissolution of corporate debtor, PUE transactions**

3.1	Introduction .....	3.2
3.2	Section 33 - Initiation of liquidation .....	3.3
3.2.1	Issues involved in the liquidation process.....	3.3
3.2.2	Circumstances under which liquidation is ordered .....	3.4
3.2.3	Process for initiation of liquidation.....	3.5
3.3	Section 34. Appointment of liquidator and fee to be paid .....	3.6
3.4	Section 35. Powers and duties of liquidator .....	3.9
3.5	Section 36. Liquidation estate .....	3.19
3.5.1	What constitutes and does not constitute liquidation estate? .....	3.19
3.5.2	Scope of liquidation estate .....	3.20
3.6	Realisation of assets under liquidation, recovery of monies, mode of sale.....	3.25
3.6.1	Realisation of assets under liquidation.....	3.25
3.6.2	Recovery of monies (Reg 39) .....	3.33
3.6.3	Mode of sale.....	3.33
3.6.4	Treatment of Capital Gains during Liquidation and the Interplay of the Income Tax Act the Insolvency and Bankruptcy Code, 2016.....	3.34
3.7	Section 37. Powers of liquidator to access information .....	3.36

3.8	Section 38. Consolidation of claims .....	3.37
3.9	Section 39: Verification of claims .....	3.39
3.10	Section 40. Admission or rejection of claims .....	3.39
3.11	Section 41. Determination of valuation of claims .....	3.40
3.12	Section 42. Appeal against the decision of liquidator .....	3.41
3.13	Section 43. Preferential transactions and relevant time .....	3.42
3.14	Section 44. Orders in case of preferential transactions .....	3.45
3.15	Section 45. Avoidance of undervalued transactions .....	3.49
3.16	Section 46. Relevant period for avoidable transactions .....	3.52
3.17	Section 47. Application by creditor in cases of undervalued transactions .....	3.53
3.18	Section 48. Order in cases of undervalued transactions .....	3.53
3.19	Section 49. Transactions defrauding creditors .....	3.53
3.20	Section 50. Extortionate credit transactions .....	3.55
3.21	Section 51. Orders of Adjudicating Authority in respect of extortionate credit transactions .....	3.59
3.22	Section 52. Secured creditor in liquidation proceedings .....	3.59
3.23	Section 53. Distribution of assets.....	3.62
3.24	Section 54. Dissolution of corporate debtor.....	3.64

### **Chapter 3A Pre-packaged Insolvency Resolution Process - resolution for stress in MSME's**

3A.1	Introduction .....	3A.1
3A.2	Legal framework.....	3A.2
3A.3	Flow chart of the PPIRP process .....	3A.19
3A.4	A Model Timeline for Completion of the PPIRP.....	3A.19
3A.5	List of Forms.....	3A.21
3A.6	Distinction between CIRP and PPIRP. ....	3A.22

### **Chapter 4 Fast Track Insolvency**

4.1	Introduction .....	4.1
4.2	Legal framework.....	4.2
4.2.1	Section 55. Fast track Corporation Insolvency Resolution Process .....	4.2
4.2.2	Section 56. Time period for completion of fast track Corporate Insolvency Resolution Process .....	4.2
4.2.3	Section 57. Manner of initiating fast track Corporate Insolvency Resolution Process .....	4.3
4.2.4	Section 58. Applicability of Chapter II to this Chapter .....	4.3
4.2.5	Issues addressed by judiciary so far .....	4.4

4.3	Framework report on creditor led resolution approach in fast track corporate insolvency resolution process by the expert committee (may 2023).....	4.5
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## **Chapter 5 Voluntary liquidation of corporate persons**

5.1	Introduction .....	5.1
5.2	Legal framework.....	5.2
5.2.1	Section 59. Voluntary liquidation of corporate persons.....	5.2
5.3	Conditions for voluntary liquidation of a Company .....	5.3
5.4	Procedure to be followed.....	5.4

## **Chapter 6 Adjudication, appeals and fraudulent transactions**

6.1	Adjudicating authority for corporate persons .....	6.1
6.1.1	Section 60. Adjudicating authority for corporate persons.....	6.1
6.1.2	Section 61. Appeals and appellate authority .....	6.4
6.1.3	Section 62. Appeal to the Supreme Court.....	6.5
6.1.4	Section 63. Civil court not to have jurisdiction.....	6.5
6.1.5	Section 64. Expeditious disposal of applications .....	6.6
6.1.6	Section 65. Fraudulent or malicious initiation of proceedings.....	6.6
6.1.7	Section 66. Fraudulent trading or wrongful trading .....	6.8
6.1.8	Section 67. Proceedings under section 66.....	6.16
6.1.9	Section 67A. Fraudulent management of corporate debtor during pre-packaged insolvency resolution process.....	6.16

## **Chapter 7 Offences and penalties**

7.1	Offences and penalties .....	7.1
7.1.1	Introduction.....	7.1

## **Chapter 8 Fresh start process, insolvency and bankruptcy of individuals and partnership firms**

8.1	Fresh Start Process (FSP) .....	8.3
8.2	Individual Insolvency Resolution Process .....	8.9
	Section 94: Application by debtor to initiate insolvency resolution process .....	8.19
	Section 95. Application by creditor to initiate insolvency resolution process .....	8.20
	Section 96. Interim- moratorium.....	8.21
	Section 97. Appointment of resolution professional.....	8.21
	Section 98. Replacement of resolution professional.....	8.23
	Section 99. Submission of report by resolution professional.....	8.23

Section 100. Admission or rejection of application .....	8.25
Section 101. Moratorium .....	8.25
Section 102. Public notice and claims from creditors.....	8.26
Section 103. Registering of claims by creditors.....	8.26
Section 104. Preparation of list of creditors.....	8.26
Section 105. Repayment plan .....	8.27
Section 106. Report of resolution professional on repayment plan.....	8.27
Section 107. Summoning of meeting of creditors.....	8.28
Section 108. Conduct of meeting of creditors.....	8.29
Section 109. Voting rights in meeting of creditors .....	8.29
Section 110. Rights of secured creditors in relation to repayment plan.....	8.30
Section 111. Approval of repayment plan by creditors.....	8.30
Section 112. Report of meeting of creditors on repayment plan.....	8.30
Section 113. Notice of decisions taken at meeting of creditors .....	8.31
Section 114. Order of Adjudicating Authority on repayment plan .....	8.31
Section 115. Effect of order of Adjudicating Authority on repayment plan .....	8.31
Section 116. Implementation and supervision of repayment plan .....	8.32
Section 117. Completion of repayment plan.....	8.32
Section 118. Repayment plan coming to end prematurely.....	8.32
Section 119. Discharge order.....	8.34
Section 120. Standard of conduct .....	8.34
8.3 Bankruptcy order for individuals and partnership firms .....	8.35
Section 121. Application for bankruptcy .....	8.35
Section 122. Application by debtor .....	8.36
Section 123. Application by creditor .....	8.36
Section 124. Effect of application.....	8.37
Section 125. Appointment of insolvency professional as bankruptcy trustee.....	8.37
Section 126. Bankruptcy order .....	8.39
Section 127. Validity of bankruptcy order.....	8.40
Section 128. Effect of bankruptcy order .....	8.40
Section 129. Statement of financial position .....	8.40
Section 130. Public notice inviting claims from creditors .....	8.41
Section 131. Registration of claims .....	8.41
Section 132. Preparation of list of creditors.....	8.41
Section 133. Summoning of meeting of creditors.....	8.42
Section 134. Conduct of meeting of creditors.....	8.42
Section 135. Voting rights of creditors.....	8.42
Section 136. Administration and distribution of estate of bankrupt.....	8.43
Section 137. Completion of administration .....	8.43
Section 138. Discharge order.....	8.47
Section 139. Effect of discharge .....	8.47
Section 140. Disqualification of bankrupt .....	8.47
Section 141. Restrictions on bankrupt .....	8.48
Section 142. Modification or recall of bankruptcy order.....	8.49

Section 143. Standard of conduct .....	8.49
Section 144. Fees of bankruptcy trustee .....	8.49
Section 145. Replacement of bankruptcy trustee.....	8.50
Section 146. Resignation by bankruptcy trustee.....	8.51
Section 147. Vacancy in office of bankruptcy trustee .....	8.51
Section 148. Release of bankruptcy trustee .....	8.52
8.4 Administration and distribution of the estate of the bankruptcy .....	8.52
Section 149. Functions of bankruptcy trustee.....	8.52
Section 150. Duties of bankrupt towards bankruptcy trustee.....	8.53
Section 151. Rights of bankruptcy trustee .....	8.53
Section 152. General powers of bankruptcy trustee.....	8.53
Section 153. Approval of creditors for certain acts.....	8.54
Section 154. Vesting of estate of bankrupt in bankruptcy trustee.....	8.54
Section 155. Estate of bankrupt .....	8.55
Section 156. Delivery of property and documents to bankruptcy trustee .....	8.55
Section 157. Acquisition of control by bankruptcy trustee.....	8.55
Section 158. Restrictions on disposition of property .....	8.55
Section 159. After-acquired property of bankrupt.....	8.56
Section 160. Onerous property of bankrupt.....	8.56
Section 161. Notice to disclaim onerous property .....	8.57
Section 162. Disclaimer of leaseholds .....	8.57
Section 163. Challenge against disclaimed property .....	8.58
Section 164. Undervalued transactions.....	8.58
Section 165. Preference transactions .....	8.59
Section 166. Effect of order.....	8.60
Section 167. Extortionate credit transactions.....	8.61
Section 168. Obligations under contracts .....	8.61
Section 169. Continuance of proceedings on death of bankrupt.....	8.62
Section 170. Administration of estate of deceased bankrupt .....	8.62
Section 171. Proof of debt .....	8.62
Section 172. Proof of debt by secured creditors .....	8.63
Section 173. Mutual credit and set-off.....	8.63
Section 174. Distribution of interim dividend .....	8.64
Section 175. Distribution of property .....	8.64
Section 176. Final dividend.....	8.64
Section 177. Claims of creditors.....	8.65
Section 178. Priority of payment of debts.....	8.66
8.5 Adjudicating authority for individuals and partnership firms.....	8.69
Section 179. Adjudicating Authority for individuals and partnership firms.....	8.69
Section 180. Civil court not to have jurisdiction.....	8.70
Section 181. Appeal to Debt Recovery Appellate Tribunal.....	8.70
Section 182. Appeal to Supreme Court.....	8.70
Section 183. Expeditious disposal of applications.....	8.70
8.6 Offences and penalties .....	8.70

Section 184. Punishment for false information etc. by creditor in insolvency resolution process.....	8.70
Section 185. Punishment for contravention of provisions .....	8.71
Section 186. Punishment for false information, concealment, etc., by bankrupt .....	8.71
Section 187. Punishment for certain actions .....	8.72

## **Chapter 9      Insolvency Professionals (IPs), Insolvency Professionals Agency (IPAs), Insolvency and Bankruptcy Board of India (IBBI) and Information Utilities (IU)**

9.1      Insolvency and Bankruptcy Board of India .....	9.3
9.1.1      Section 188. Establishment and incorporation of Board .....	9.3
9.1.2      Section 189. Constitution of Board.....	9.4
9.1.3      Section 190. Removal of member from office .....	9.5
9.1.4      Section 191. Powers of Chairperson .....	9.6
9.1.5      Section 192. Meetings of Board.....	9.6
9.1.6      Section 193. Member not to participate in meetings in certain cases.....	9.6
9.1.7      Section 194. Vacancies etc., not to invalidate proceedings of Board, and Officers and employees of Board.....	9.6
9.1.8      Section 195. Power to designate financial sector regulator.....	9.7
9.2      Powers and functions of the board.....	9.7
9.2.1      Section 196. Powers and functions of Board .....	9.7
9.2.2      Section 197. Constitution of advisory committee, executive committee or other committee .....	9.12
9.2.3      Section 198. Condonation of delay .....	9.12
9.3      Insolvency professionals agencies .....	9.13
9.3.1      Section 199. No person to function as insolvency professional agency without valid certificate of registration .....	9.13
9.3.2      Section 200. Principles governing registration of insolvency professional agency.....	9.14
9.3.3      Section 201. Registration of insolvency professional agency .....	9.14
9.3.4      Section 202. Appeal to National Company Law Appellate Tribunal.....	9.15
9.3.5      Section 203. Governing Board of insolvency professional agency.....	9.15
9.3.6      Section 204. Functions of insolvency professional agencies .....	9.15
9.3.7      Section 205. Insolvency professional agencies to make bye-laws .....	9.16
9.4      Insolvency professionals.....	9.16
9.4.1      Section 206. Enrolled and registered persons to act as insolvency professionals .....	9.16
9.4.2      Section 207. Registration of insolvency professionals.....	9.17
9.4.3      Section 208. Functions and obligations of insolvency professionals .....	9.18
9.5      Information utilities .....	9.18
9.5.1      Section 209. No person to function as information utility without certificate of registration .....	9.21