

THE INSOLVENCY AND BANKRUPTCY BILL, 2015

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	THE INSOLVENCY AND BANKRUPTCY CODE, 2015	
	A	
	BILL	
	to promote entrepreneurship, availability of credit, and balance the interests of all the stakeholders by consolidating and amending the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner and for maximization of value of the assets of such persons and matters connected therewith or incidental thereto.	
	BE it enacted by Parliament in the Sixty-sixth year of the Republic of India as follows:-	
	PART I PRELIMINARY	
	1. (1) This Act may be called the Insolvency and Bankruptcy Code, 2015.	Short title, extent and commencement.
	(2) It extends to the whole of India: <i>Provided</i> that Part III of this Act shall not extend to Jammu and Kashmir.	
	(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint: <i>Provided</i> that different dates may be appointed for different provisions of this Act and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the commencement of that provision.	
30 of 2013	2. The provisions of this Act shall apply to— (a) companies incorporated under the Companies Act, 2013 or under any previous company law; (b) any other company governed by any special Act	Application.

	<p>for the time being in force, except in so far as the said provisions are inconsistent with the provisions of such special Act;</p> <p>(c) Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008 ;</p> <p>(d) such body corporate, incorporated by any Act for the time being in force, as the Central Government may, by notification, specify in this behalf; and</p> <p>(e) partnership firms and individuals,</p> <p>to the extent of insolvency, liquidation or bankruptcy, as the case may be.</p>	
	<p>3. In this Act, unless the context otherwise requires, -</p>	<p>Definitions.</p>
	<p>(1) “Board” means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188;</p> <p>(2) “bench” means a bench of the Adjudicating Authority;</p> <p>(3) “bye-laws” mean the bye-laws made by the insolvency professional agency under section 205;</p> <p>(4) “charge” means an interest or lien created on the property or assets of a corporate person or any of its undertakings or both as security;</p> <p>(5) “Chairperson” means the Chairperson of the Board;</p> <p>(6) “claim” means –</p> <p>(a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or</p> <p>(b) right to an equitable remedy for breach of performance, if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured, or</p>	

	<p style="text-align: center;">unsecured;</p> <p>(7) “corporate person” means a company, a limited liability partnership, or any other person with limited liability under any law for the time being in force as may be prescribed, provided that it shall not include any person engaged in the business of providing financial service;</p> <p>(8) “corporate debtor” means a corporate person who owes a debt to any person;</p> <p>(9) “core services of an information utility” means services rendered by an information utility, for –</p> <ul style="list-style-type: none">(a) accepting electronic submission of financial information in a specified form and manner;(b) safe and accurate recording of financial information;(c) authenticating and verifying the financial information submitted by a person; and(d) providing access to information stored with the information utility to persons as may be specified; <p>(10) “creditor” means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor and an unsecured creditor (including a person resident outside India);</p> <p>(11) “debt” means a liability in respect of a claim including any financial debt and operational debt;</p> <p>(12) “default” means the state when a debt has become due and is not repaid by the debtor or the corporate debtor as the case may be;</p> <p>(13) “financial information” in relation to a person, means one or more of the following categories of information, namely :-</p> <ul style="list-style-type: none">(a) records of the debt of the person;(b) records of liabilities when the person is solvent;	
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	<ul style="list-style-type: none">(c) records of assets of the person that are pledged as collateral against secured credit contracts;(d) evidence if any, of instances of default by the person against any debts; and(e) records of the balance sheet and cash-flow statements of the person. <p>(14) “financial institution” includes a scheduled bank, and any other financial institution defined under the Reserve Bank of India Act, 1934 or regulated by the Reserve Bank of India;</p> <p>(15) “financial service” means:</p> <ul style="list-style-type: none">(a) acceptance of deposits;(b) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;(c) effecting contracts of insurance;(d) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;(e) rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of:<ul style="list-style-type: none">(i) buying, selling, or subscribing to, a financial product;(ii) availing a financial service; or(iii) exercising any right associated with a financial product or financial service;(f) establishing or operating an investment scheme;(g) maintaining or transferring records of ownership of a financial product;(h) underwriting the issuance or subscription of a financial product;(i) selling, providing, or issuing stored value	
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	<p>or payment instruments or providing payment services;</p> <ul style="list-style-type: none">(j) rendering or agreeing to render advice on or soliciting for the purposes of:<ul style="list-style-type: none">(i) buying, selling, or subscribing to, a financial product;(ii) availing any of the financial services in Clauses (a) to (i); or(iii) exercising any right associated with a financial product or any of the financial services in Clauses (a) to (i); <p>and for the purpose of this definition, “financial product” means:</p> <ul style="list-style-type: none">(a) securities;(b) contracts of insurance;(c) deposits;(d) credit arrangements;(e) retirement benefit plans;(f) small savings instruments;(g) foreign currency contracts other than contracts to exchange one currency (whether Indian or not) for another that are to be settled immediately;(h) any other instrument that may be prescribed. <p>(16) “insolvency professional” means a person enrolled with an insolvency professional agency and registered with the Board under section 207;</p> <p>(17) “insolvency professional agency” means any person registered with the Board under section 201 as an agency;</p> <p>(18) “information utility” means a person who is registered with the Board to provide core services under section 210;</p>	
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	<p>(19) “notification” means a notification published in the Official Gazette, and the terms “notified” and “notify” shall be construed accordingly;</p> <p>(20) “person” includes -</p> <ul style="list-style-type: none">(a) an individual;(b) a Hindu Undivided Family;(c) a company;(d) a trust;(e) a partnership;(f) a limited liability partnership; and(g) any other entity established by a statute; <p>and each instance shall include a person resident outside India;</p> <p>(21) “person resident in India” means –</p> <ul style="list-style-type: none">(a) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include –<ul style="list-style-type: none">(i) a person who has gone out of India or who stays outside India for taking up employment outside India, or for carrying on any business or vocation outside India, or for any other purpose, in such circumstances as to indicate his intention to stay outside India for an uncertain period;(ii) a person who has come to, or stays, in India, for taking up employment in India, or for carrying on any business or vocation in India, or for any other purpose, in such circumstances as to indicate his intention to stay in India for an uncertain period;(b) any person or body corporate registered or	
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	<p>incorporated in India; or</p> <p>(c) any office, branch or agency in India, owned or controlled by a person resident outside India; or</p> <p>(d) an office, branch or agency outside India owned or controlled by a person resident in India;</p> <p>(22) “person resident outside India” means a person other than a person resident in India;</p> <p>(23) “prescribed” means prescribed by rules by the Central Government;</p> <p>(24) “property” includes money, goods, actionable claims, land and every description of property wherever situated and also obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to property;</p> <p>(25) “regulations” means the regulations made by the Board under this Act;</p> <p>(26) “schedule” means the schedule annexed to this Act;</p> <p>(27) “secured creditor” means a creditor in favour of whom security interest is created;</p> <p>(28) “security interest” means right, title or interest or a claim to property, created or provided for, or by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing any obligation of any person or having a similar effect;</p> <p>(29) “specified” means specified by regulations made by the Board under this Act and the term “specify” shall be construed accordingly;</p> <p>(30) “transaction” means a gift, agreement or arrangement in writing for the transfer of assets of funds, goods or services, from or to the corporate debtor;</p> <p>(31) “transfer of property” includes a transfer of any</p>	
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	<p>interest in property and the creation of any charge upon property;</p> <p>(32) “transfer” includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien;</p> <p>(33) “workman” means an the employee being a workman within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947;</p> <p>(34) words and expressions used but not defined in this Act shall respectively have the meanings, if any, assigned to them in the Securities Exchange Board of India Act, 1992, Companies Act, 2013, the Limited liability partnership Act, 2008, or Securities Contract (Regulation) Act, 1956, as the context may require.</p>	
	<p>PART II</p> <p>INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS</p> <p>CHAPTER I</p> <p>PRELIMINARY</p>	
	<p>4. (1) This Part shall apply to matters relating to the insolvency and liquidation of corporate persons.</p>	Application of this Part
	<p>(2) The Adjudicating Authority for the purposes of this Part shall be the National Company Law Tribunal constituted under Section 408 of the Companies Act, 2013.</p>	
	<p>5. In this Part, unless the context otherwise requires-</p>	Definitions
	<p>(1) “auditor” means a chartered accountant certified to practice as such by the Institute of Chartered Accountants of India under section 6 of the Chartered Accountants Act, 1949;</p> <p>(2) “chapter” means a chapter under this Part;</p> <p>(3) “corporate applicant” means any one of the following:</p>	

	<ul style="list-style-type: none">(a) a person who is a shareholder of the corporate person who may make such an application for the corporate insolvency resolution process under the constitutional document of the corporate person or a partner of the corporate person who is permitted to make an application under the partnership documents of the corporate debtor;(b) an individual who is in charge of managing the overall operations and resources of the corporate debtor;(c) a person who has the control, supervision or oversight of the financial affairs of the corporate debtor; or(d) any other person employed or contracted by the corporate debtor for the provision of services who has possession of information required to be submitted in section 10 in accordance with applicable law; <p>(4) “dispute” means a bona fide suit or arbitration proceeding regarding (a) the existence or the amount of a debt; (b) the quality of a good or service; or (c) the breach of a representation or warranty;</p> <p>(5) “financial creditor” means any person to whom a financial debt is owed, and includes a person to whom the such debt may have been legally assigned or transferred in accordance with law (including a person resident outside India);</p> <p>(6) “financial debt” means a debt extended against the consideration for the time value of money, and includes:</p> <ul style="list-style-type: none">(a) money borrowed against the payment of interest;(b) any amount raised by acceptance under any acceptance credit facility or its dematerialised equivalent;(c) any amount raised pursuant to any note	
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	<p>purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;</p> <ul style="list-style-type: none">(d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with Indian GAAP or other accounting standards, be treated as a finance or capital lease;(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and(i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in sub-section (a) to (h) above; <p>(7) “financial information” means one or more of the following types of information in relation to a person, the details of which must be specified by the Board-</p> <ul style="list-style-type: none">(a) records of the debt of the person;(b) records of liabilities when the person is solvent;(c) records of assets of the person that are pledged as collateral against secured credit	
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	<p>contracts;</p> <p>(d) evidence if any, of instances of default by the person against any payments due; and</p> <p>(e) records of the balance sheet and cash-flow statements of the person;</p> <p>(8) “financial position” means the financial information of a person as on a certain date;</p> <p>(9) “financial service provider” means a person engaged in the business of providing a financial service;</p> <p>(10) “fraudulently” means acting with the intent to deceive, to gain unfair advantage from, or to injure the interests of, the corporate debtor or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss and for the purposes of this definition, wrongful gain means the gain by unlawful means of property to which the person gaining is not legally entitled; and wrongful loss means the loss by unlawful means of property to which the person losing it is legally entitled.</p> <p>(11) “information memorandum” means a memorandum prepared in accordance with section 29;</p> <p>(12) “initiation date” means the date on which a financial creditor, corporate debtor or operational creditor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process;</p> <p>(13) “insolvency commencement date” means the date of admission of an application by the Adjudicating Authority under sections 7, 9 or 10 as the case may be;</p> <p>(14) “insolvency debt” means all debts owed by a corporate debtor and remaining outstanding on the initiation date;</p> <p>(15) “insolvency resolution process costs” means the following:</p>	
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	<p>(a) the amount of any interim finance and all associated costs;</p> <p>(b) the fees payable to any person acting as an resolution professional; and</p> <p>(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern; and</p> <p>(d) any other costs as may be specified by the Board;</p> <p>(16) “insolvency resolution process period” means the period commencing on the insolvency commencement date and ending on one hundred and eighty days from the insolvency commencement date, subject to any extension in accordance with this Act;</p> <p>(17) “interim finance” means any financial debt raised by the resolution professional during the corporate insolvency resolution process period;</p> <p>(18) “liquidation costs” means any costs incurred by the liquidator during liquidation subject to any regulations specified by the Board;</p> <p>(19) “liquidation commencement date” means the date on which proceedings for liquidation are commenced in accordance with section 33 or section 59, as the case may be;</p> <p>(20) “liquidator” means an insolvency professional appointed as a liquidator in accordance with the provisions of Chapter III or Chapter V of this Part, as the case may be.</p> <p>(21) “officer” means an “officer who is in default”, as defined in the Companies Act 2013 and applied mutatis mutandis to this Act or a designated partner as defined in the Limited Liability Partnership Act, 2008, as the case may be;</p> <p>(22) “operational creditor” means a person to whom an operational debt is owed and includes any person to whom such debt may have been legally assigned or transferred (including a person resident outside</p>	
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	<p>India);</p> <p>(23) “operational debt” means a debt incurred in exchange for the provision of goods or services (including employment) or a debt in respect of the payment of a due arising under any law for the time being in force payable to the Central Government, any State Government or any regulator;</p> <p>(24) “personal guarantor” means an individual who is the surety in a contract of guarantee to a corporate debtor;</p> <p>(25) “personnel” means the employees, directors, managers, key managerial personnel and designated partners, if any, of the corporate debtor;</p> <p>(26) “related party” means the following, in relation to a corporate debtor:</p> <p>(a) any person who controls more than twenty per cent of voting rights in the corporate debtor on account of ownership or a voting agreement;</p> <p>(b) any person in whom the corporate debtor controls more than twenty per cent of voting rights on account of ownership or a voting agreement;</p> <p>(c) personnel of the corporate debtor who have significant influence over the management and operation of the corporate debtor;</p> <p>(d) any person who can control the composition of the board of directors or corresponding governing body of the corporate debtor;</p> <p>(e) any person who may be considered a related party of the corporate debtor on account of:</p> <p>(i) participation in policy making processes of the corporate debtor; or</p> <p>(ii) having more than two directors in</p>	
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	<p>common between the corporate debtor and the person; or</p> <p>(iii) interchange of managerial personnel between the corporate debtor and the person; or</p> <p>(iv) provision of essential technical information to or from the corporate debtor;</p> <p>(27) “resolution applicant” means any person who may submit a resolution plan to the resolution professional;</p> <p>(28) “resolution plan” means a plan proposed by any person for continuation of the corporate debtor as a going concern in accordance with Part II;</p> <p>(29) “resolution professional” means for the purposes of this Part an insolvency professional appointed to conduct the corporate insolvency resolution process;</p> <p>(30) “resolution plan” means a proposal made for the continuation of the corporate debtor as a going concern in accordance with Part II;</p> <p>(31) “voting share” is the share of the voting rights of a single financial creditor in the committee of creditors as provided and is based on the proportion of the financial debt owed to such financial creditor in relation to the overall financial debt owed by the corporate debtor.</p>	
	<p>CHAPTER II</p> <p>CORPORATE INSOLVENCY RESOLUTION PROCESS</p>	
	<p>6. Where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself may initiate corporate insolvency resolution process in respect of such corporate debtor in the manner as provided under this Chapter.</p>	<p>Persons who may initiate corporate insolvency resolution process.</p>
	<p>7. (1) A financial creditor either by itself or jointly with other financial creditors may file an application for</p>	<p>Initiation of corporate</p>

	<p>initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.</p> <p><i>Explanation.</i> - For the purpose of this sub-section, a default may be in respect of a financial debt owed to any financial creditor of the corporate debtor and not only the applicant financial creditor.</p>	<p>insolvency resolution process by financial creditor.</p>
	<p>(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.</p> <p>(3) The financial creditor shall, along with the application furnish -</p> <p>(a) proof of the default recorded with the information utility or such other proof of default as may be specified;</p> <p>(b) the proposed resolution professional to act as an interim resolution professional; and</p> <p>(c) any other information as may be specified by the Board.</p>	
	<p>(4) The Adjudicating Authority shall, within two days of the receipt of the application under sub-section (2), ascertain the existence of a default or otherwise from the records of information utility or on the basis of the additional evidence adduced by the financial creditor as provided in sub-section (3).</p>	
	<p>(5) Where the Adjudicating Authority is satisfied that -</p> <p>(a) a default has occurred, the application is complete and no disciplinary proceeding is pending against the resolution professional, it may by order, admit such application;</p> <p>(b) default has not occurred or the application is incomplete or any disciplinary proceeding is pending against the resolution professional, it may, by order, reject such application:</p>	

	<p><i>Provided</i> that prior to rejecting an application on the grounds mentioned in clause (b) of sub-section (5), the applicant must be given an opportunity to rectify the defect in his application within 3 days of receiving a notice from the Adjudicating Authority in this regard.</p>	
	<p>(6) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (5).</p>	
	<p>(7) The Adjudicating Authority shall communicate-</p> <p>(a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;</p> <p>(b) the order under clause (b) of sub-section (5) to the financial creditor,</p> <p>within two days of admission or rejection of such application, as the case may be.</p>	
	<p>8. (1) An operational creditor shall, on the occurrence of a default, deliver a demand notice or copy of an invoice demanding payment of the amount involved in the default to the corporate debtor in such form as may be prescribed, through an information utility, wherever applicable, or by registered post or courier or by any electronic communication.</p> <p>(2) The corporate debtor shall, within a period of ten days of the receipt of the demand notice or copy of the invoice mentioned in sub-section (1) bring to the notice of the operational creditor -</p> <p>(a) the existence of a dispute, if any, and record of the pendency of the suit or arbitration proceedings filed at least sixty days prior to the receipt of such invoice or notice in relation to such dispute through an information utility or by registered post or courier or by any electronic</p>	<p>Insolvency resolution by operational creditor.</p>

	<p>communication;</p> <p>(b) the repayment of unpaid operational debt-</p> <p>(i) by sending an attested copy of electronic transfer of the unpaid amount from the bank account of the corporate debtor; or</p> <p>(ii) by sending an attested copy of proof that the operational creditor having encashed a cheque issued by the corporate debtor.</p> <p><i>Explanation.</i> – For the purpose of this section a “demand notice” means a notice served by an operational creditor to the corporate debtor demanding repayment of the debt in respect of which the default has occurred.</p>	
	<p>9. (1) After the expiry of the period of ten days from the date of delivery of the invoice or notice demanding payment under sub-section (1) of section 8, if the operational creditor does not receive payment from the corporate debtor or notice of the dispute under sub-section (2) of section 8, the operational creditor may file an application with the Adjudicating Authority in the prescribed form for initiating a corporate insolvency resolution process.</p> <p>(2) The application under sub-section (1) shall be filed in such form and manner and accompanied with such fee as may be prescribed.</p> <p>(3) The operational creditor shall, along with the application furnish-</p> <p>(a) the invoice demanding payment or notice delivered by the operational creditor to the corporate debtor;</p> <p>(b) affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt;</p> <p>(c) a confirmation from the financial institutions maintaining accounts of the operational creditor that there is no</p>	<p>Application for initiation of corporate insolvency resolution process by operational creditor.</p>

	<p>payment of an unpaid operational debt by the corporate debtor; and</p> <p>(d) such other information or as may be specified.</p> <p>(4) The Adjudicating Authority shall, within two days of the receipt of the application under sub-section (2), admit the application and communicate such decision to the operational creditor and the corporate debtor if, -</p> <p>(a) the application is complete;</p> <p>(b) there is no repayment of the unpaid operational debt;</p> <p>(c) the invoice or notice for payment to the corporate debtor has been delivered by the operational creditor; and</p> <p>(d) no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility.</p>	
	<p>(5) The Adjudicating Authority shall reject the application and communicate such decision to the operational creditor and the corporate debtor if -</p> <p>(a) the application made under this section is incomplete;</p> <p>(b) there has been repayment of the unpaid operational debt;</p> <p>(c) the creditor has not delivered the invoice or notice for payment to the corporate debtor; and</p> <p>(d) notice of dispute has been received by the operational creditor and there is no record of dispute in the information utility.</p> <p>(6) Without prejudice to the conditions mentioned in sub-section (3), an operational creditor initiating a corporate insolvency resolution process under this section, may also propose a resolution professional to act as an interim resolution professional.</p> <p>(7) The corporate insolvency resolution process shall</p>	

	commence from the date of admission of the application under sub-section (4) of this section.	
10.	<p>(1) Where a default has occurred, a corporate applicant may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.</p> <p>(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.</p> <p>(3) The corporate applicant shall, along with the application furnish the information relating to –</p> <p>(a) its books of account and such other documents and for such period as may be specified; and</p> <p>(b) the proposed resolution professional to be appointed to act as the interim resolution professional.</p>	Initiation of corporate insolvency resolution process by corporate debtor.
	<p>(4) The Adjudicating Authority shall, within a period of two days of the receipt of the application, by an order-</p> <p>(a) admit the application if it is complete; or</p> <p>(b) reject the application if it is incomplete and either case, communicate such decision to the corporate debtor.</p>	
	<p>(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.</p>	
11.	<p>The following persons shall not be entitled to make an application to initiate corporate insolvency resolution process under this Chapter, namely:-</p> <p>(a) a corporate debtor who is undergoing a corporate insolvency resolution process; or</p> <p>(b) a corporate debtor who has completed corporate insolvency resolution process twelve months</p>	Persons not entitled to make application.

	<p>preceding the date of making of the application under this Chapter; and</p> <p>(c) a corporate debtor or a financial creditor whose resolution plan was approved twelve months before the date of making an application under this Chapter and who has violated any of the terms of such plan.</p>	
	<p>12. (1) Subject to sub-section (2) the corporate insolvency resolution process shall be completed within a period of one hundred and eighty days from the date of admission of the application to initiate such process.</p> <p>(2) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond one hundred and eighty days if instructed to do so by way of a resolution passed at a meeting of the committee of creditors and supported by a vote of seventy five percent of the voting shares.</p> <p>(3) On an application under sub-section (2) if the Adjudicating Authority determines that the case is of such complexity that an orderly corporate insolvency resolution process cannot be completed within one hundred and eighty days, it may by order extend the duration of such process beyond one hundred and eighty days:</p> <p><i>Provided</i> that any extension of the corporate insolvency resolution process period granted by the Adjudicating Authority under this section shall not be beyond a period of ninety days:</p> <p><i>Provided</i> further that any extension of the corporate insolvency resolution process under this section shall not be granted more than once.</p>	<p>Time-limit for completion of insolvency resolution process.</p>
	<p>13. The Adjudicating Authority, after admission of the application under section 7, 9 or section 10, shall, by an order –</p> <p>(a) declare a moratorium for the purposes referred to in section 14;</p> <p>(b) cause a public announcement of the initiation of</p>	<p>Declaration of moratorium and public announcement.</p>

	<p>corporate insolvency resolution process to be made under section 15 and call for the submission of claims in the manner laid down in section 16; and</p> <p>(c) appoint an interim resolution professional in the manner as laid down in section 16.</p>	
	<p>14. (1) On the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium prohibiting all of the following –</p> <p>(a) the institution or continuation of 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;</p> <p>(b) the corporate debtor from transferring, encumbering, alienating or disposing off any of its assets or any legal right or beneficial interest therein other than in the ordinary course of business;</p> <p>(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;</p> <p>(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; and</p> <p>(e) the termination, suspension or interruption of the supply of such essential goods or services to the corporate debtor as may be specified.</p> <p>(2) The order of moratorium shall continue till the completion of the corporate insolvency resolution process:</p> <p><i>Provided</i> that where at any time during the corporate insolvency</p>	<p>Effects of moratorium.</p>

	<p>resolution process period, if the Adjudicating Authority approves a duly submitted resolution plan under section 31 or the committee of creditors resolves to liquidate the corporate debtor, the moratorium shall cease to have effect.</p>	
	<p>15. (1) The public announcement of the corporate insolvency resolution process under the order referred to in section 13 shall contain the following information, namely: –</p> <ul style="list-style-type: none"> (a) name and address of the corporate debtor under the corporate insolvency resolution process; (b) name of the authority with whom the corporate debtor is incorporated or registered; (c) the last date for submission of claims; (d) form in which the claim shall be submitted; (d) details of the interim resolution professional who shall be responsible for receiving claims;` (e) penalties for false or misleading claims; and (f) the date on which the corporate insolvency resolution process shall close, which shall be the one hundred and eightieth day from the date of the admission of the application under section 7, 9 or 10, subject to any extension under section 12. 	<p>Public announcement of corporate insolvency resolution process.</p>
	<p>(2) The public announcements under this section shall be made in such manner as may be specified.</p>	
	<p>16. (1) The Adjudicating Authority shall appoint an interim resolution professional within two days from the insolvency commencement date.</p> <p>(2) Where the application for corporate insolvency resolution process is initiated by –</p> <ul style="list-style-type: none"> (i) a financial creditor or the corporate debtor, 	<p>Appointment and tenure of interim resolution professional.</p>

	<p>as the case may be, the proposed resolution professional shall be appointed as the interim resolution professional.</p> <p>(ii) an operational creditor and no proposal for an interim resolution professional is made in such application, 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.</p> <p>(3) The Board shall, within two days of the receipt of a reference from the Adjudicating Authority under sub-section (2), send to the Adjudicating Authority the name of an insolvency professional who has -</p> <p>(a) the relevant expertise to act as the interim resolution professional for the proposed corporate insolvency resolution process; and</p> <p>(b) no disciplinary proceedings pending against him.</p> <p>(4) The term of the interim resolution professional shall not exceed fourteen days from date of his appointment.</p>	
	<p>17. (1) From the date of appointment of the interim resolution professional -</p> <p>(a) the management of the affairs of the corporate debtor shall vest in the interim resolution professional;</p> <p>(b) the powers of the board of directors or the partners or of the corporate debtor (as the case may be) shall be suspended and be exercised by the interim resolution professional;</p> <p>(c) the officers and managers of the corporate debtor shall report to the interim resolution professional and provide access to such documents and records of the corporate debtor as may be demanded by the interim resolution professional;</p> <p>(d) the financial institutions maintaining</p>	<p>Management of affairs of corporate debtor by interim resolution professional.</p>

	<p>accounts of the corporate debtor shall act on the instructions of the corporate debtor in relation to such accounts and furnish all information relating to the corporate debtor available with them to the interim resolution professional.</p> <p>(2) The interim resolution professional vested with the management of the corporate debtor shall-</p> <p>(a) do all acts and execute in the name and on behalf of the corporate debtor all deeds, receipts, and other documents, if any;</p> <p>(b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board;</p> <p>(c) have the authority to access the electronic records of corporate debtor from information utility having financial information of the corporate debtor;</p> <p>(d) have the authority to access the books of accounts, records and other relevant documents of corporate debtor available with government authorities, statutory auditors, accountants and such other persons as may be specified.</p> <p>(3) Subject to the provisions of Chapter VII of this Part, the interim resolution professional shall have immunity from criminal prosecution and any other liability for anything done or omitted to be done in good faith in the discharge of his duties as an insolvency resolution professional under this Act.</p>	
	<p>18. (1) The interim resolution professional shall have the responsibility-</p> <p>(a) to collect all information relating to the assets, finances and operations of the corporate debtor for determining its financial position;</p> <p>(b) to receive and collate all the claims submitted by creditors to him, pursuant to the public announcement under sections 13 and 15 within fourteen days of his</p>	<p>Duties of insolvency resolution professional</p>

	<p>appointment;</p> <ul style="list-style-type: none">(c) to constitute a committee of creditors;(d) to monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors; and(e) to file information collected with the information utility, if necessary. <p>(2) The interim resolution professional shall collect the following information in relation to the corporate debtor –</p> <ul style="list-style-type: none">(a) business operations for the previous two years;(b) financial and operational payments for the previous two years;(c) list of assets and list of liabilities at the time of application for the corporate insolvency resolution process; and(d) such other information as may be specified. <p>(3) The interim resolution professional shall take control and custody of the following assets -</p> <ul style="list-style-type: none">(a) any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, an information utility, any depository of securities or any other registry that records the ownership of assets including -<ul style="list-style-type: none">(i) assets over which the corporate debtor has ownership rights which may be located in a foreign country;(ii) assets that may or may not be in possession of the corporate debtor;(iii) tangible assets, whether movable or immovable;(iv) intangible assets including but not	
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	<p>limited to intellectual property;</p> <p>(v) securities including shares held in a subsidiary of the corporate debtor, financial instruments, insurance policies, and contractual rights; and</p> <p>(vi) assets subject to the determination of ownership by a court or authority:</p> <p><i>Explanation.</i> – For the purposes of this sub-section, the term “assets” shall not include the following:-</p> <p>(a) assets owned by a third party in possession of the corporate debtor under contractual arrangements including but not limited to-</p> <p>(i) trust assets; or</p> <p>(ii) bailment contracts;</p> <p>(b) personal assets of any shareholder or partner of the corporate debtor as the case may be, (other than assets recovered through an application for avoidance in accordance with Chapter III); and</p> <p>(c) assets of any Indian or foreign subsidiary of the corporate debtor.</p> <p>(4) The interim resolution professional shall have such other duties as may be specified.</p>	
<p>19.</p>	<p>(1) The personnel of the corporate debtor shall extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the corporate debtor.</p> <p>(2) Where personnel of the corporate debtor or any other person required to cooperate with the interim resolution professional does not so cooperate, the interim resolution professional may make an application to the Adjudicating Authority for an order.</p> <p>(3) The Adjudicating Authority, on receiving an application sub-section (2), shall by an order, direct such personnel or other person -</p> <p>(a) to provide the information requested by</p>	<p>Management to extend co-operation to interim resolution professional.</p>

	<p>the interim resolution professional;</p> <p>(b) to comply with the instructions of the resolution professional and to cooperate with him in collection of information and management of the corporate debtor; and</p> <p>(c) to direct any person not complying with the moratorium to forthwith comply with the moratorium.</p>	
	<p>20. (1) The interim resolution professional shall make every endeavour to protect and preserve the value of the property of the corporate debtor and manage the operations of the corporate debtor as a going concern.</p> <p>(2) For the purposes of sub-section (1), the interim resolution professional shall have the authority-</p> <p>(a) to appoint accountants, legal counsel or such other professionals as may be necessary;</p> <p>(b) to enter into contracts on behalf of the corporate debtor or to amend or modify the contracts or transactions which were entered into prior to the commencement of corporate insolvency resolution process;</p> <p>(c) to raise interim fresh provided that in doing so, no security interest may be granted over any encumbered property of the corporate debtor without the prior consent of the creditors whose debt is secured over such encumbered property;</p> <p>(d) to issue instructions to its personnel as may be necessary for making the corporate debtor as a going concern; and</p> <p>(e) to take all such actions as are necessary to keep the corporate debtor as a going concern.</p>	<p>Management of operations of corporate debtor as going concern.</p>
	<p>(3) The amount of the interim finance will be considered part of the costs of the corporate</p>	

	<p>insolvency resolution process.</p>	
	<p>21. (1) The resolution professional, after consolidation of all claims received against the corporate debtor shall review the financial position of the corporate debtor and constitute a committee of creditors.</p> <p>(2) The committee of creditors shall comprise all financial creditors of the corporate debtor, to whom the corporate debtor owes financial debts:</p> <p><i>Provided</i> that a related party to whom a corporate debtor owes a financial debt shall not have any right of representation, participation or voting in a meeting of committee of creditors.</p> <p>(3) 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.</p> <p>(4) Where any person is a financial creditor as well as an operational creditor,-</p> <p>(a) such person shall be considered to be a financial creditor to the extent of the financial debt owed by the corporate debtor; and</p> <p>(b) such person shall be considered to be an operational creditor to the extent of the operational debt owed by the corporate debtor,</p> <p>and such person shall be included in the committee of creditors, with voting share proportionate to the extent of financial debts owed to such creditor.</p> <p>(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 and shall not be included as part of the committee of creditors to the extent of such assignment or legal transfer.</p>	<p>Committee of creditors.</p>

	<p>(6) Where the terms of the issuance of financial debts issued as securities provide for a single trustee or agent to act for all financial creditors, each financial creditor may-</p> <ul style="list-style-type: none"> (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 singly or in conjunction with one or more financial creditors. <p>(7) The Board may specify the manner of determining the voting share in respect of financial debts issued as securities under sub-section (6).</p> <p>(8) All decisions of the committee of creditors shall be taken by a vote of not less than seventy five per cent of voting share:</p> <p><i>Provided</i> that in case a corporate debtor does not have any financial creditors, the committee of creditors shall have such composition and decision making processes as may be specified by the Board.</p>	
22.	<ul style="list-style-type: none"> (1) The first meeting of the committee of creditors shall be held on the day following the constitution of the committee of creditors. (2) The committee of creditors, at the first meeting, may, by a majority vote of not less than seventy five percent of the voting share of the financial creditors, either resolve to appoint the interim resolution professional as a resolution professional or propose the name of another insolvency professional to replace the interim resolution professional. 	<p>Appointment of resolution professional.</p>

	<p>(3) Where the committee of creditors —</p> <p>(a) decides by way of a resolution in a meeting to continue the interim resolution professional as resolution professional, it shall communicate its decision to the interim resolution professional, the corporate debtor and the Adjudicating Authority; or</p> <p>(b) proposes to replace the interim resolution professional, it shall file an application before the Adjudicating Authority for the appointment of proposed resolution professional.</p> <p>(4) The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and shall make such appointment upon confirmation from the Board.</p> <p>(5) Where the Board does not confirm the name of the proposed resolution professional within two days of the receipt of the name of the proposed resolution professional, the Adjudicating Authority shall by order direct the interim resolution professional to continue to function as the resolution professional until such time as the Board confirms the appointment of the resolution professional.</p>	
<p>23.</p>	<p>(1) 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 unless replaced with other resolution professional in the manner as laid down in this Chapter.</p> <p>(2) The resolution professional shall exercise all such powers and perform duties as are vested or conferred on the interim resolution professional under this Chapter.</p> <p>(3) In case of any appointment of a resolution professional under sub-sections (4) and (5) of</p>	<p>Resolution professional to conduct corporate insolvency resolution process</p>

	<p>section 22, the interim resolution professional shall provide all the information, documents and records pertaining to the corporate debtor to the resolution professional.</p>	
	<p>24. (1) The members of the committee of creditors may meet in person or by any means of electronic conferencing.</p> <p>(2) All meetings of the committee of creditors shall be conducted by the resolution professional.</p> <p>(3) The resolution professional shall give notice of each meeting of the committee of creditors to the members of the suspended board of directors or the partners of the corporate debtor as the case may be:</p> <p><i>Provided</i> that any member of such board of directors or partners as the case may be shall not have any right to vote in a meeting of the committee of creditors:</p> <p><i>Provided</i> further that non-attendance of any director or partner as the case may be shall not invalidate proceedings of such meeting.</p> <p>(4) Any creditor who is a member of the committee of creditors may appoint an insolvency professional other than the resolution professional to represent such creditor in a meeting of the committee of creditors:</p> <p><i>Provided</i> that the fees payable to such insolvency professional representing any individual creditor will be borne by such creditor.</p> <p>(5) Each creditor shall vote in accordance with the voting share assigned to him based on the financial debts owed to such creditor.</p> <p>(6) The resolution professional shall determine the voting share to be assigned to each creditor in the manner specified by the Board.</p> <p>(7) The procedure for the conduct of the meeting of the committee of creditors shall be as specified.</p>	<p>Meeting of committee of creditors</p>
	<p>25. (1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate</p>	<p>Duties of resolution professional.</p>

	<p>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> <ul style="list-style-type: none">(a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;(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;(c) raise interim finances subject to the requirement for approval of the committee of creditors under section 28;(d) appoint accountants, lawyers and other advisors in the manner as specified by Board;(e) maintain an updated list of claims;(f) convene and attend all meetings of the committee of creditors;(g) prepare the information memorandum in accordance with section 29;(h) invite prospective lenders, investors, and any other persons to put forward resolution plans;(i) present all resolution plans at the meetings of the committee of creditors;(j) file an application for avoidance of transactions in accordance with Chapter III, if required; and(k) such other actions as may be specified by the Board. <p>(3) The filing of an avoidance application under clause (j) of sub-section (2) by the resolution professional</p>	
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	<p>shall not in any way impede the proceedings of the corporate insolvency resolution process.</p>	
	<p>26. (1) The committee of creditors may replace a resolution professional appointed under section 22 at any time during the corporate insolvency resolution process.</p> <p>(2) The committee of creditors may, at a meeting, by a vote of seventy five per cent of voting shares, propose to replace the resolution professional appointed by them under section 22 with another resolution professional.</p> <p>(3) The committee of creditors shall forward the name of the insolvency professional proposed by them to the Adjudicating Authority.</p> <p>(4) The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and a resolution professional shall be appointed in the same manner as laid down in sub-sections (3) and (4) of section 16:</p> <p><i>Provided</i> that where any disciplinary proceedings are pending against the proposed resolution professional, the existing resolution professional shall continue for the remaining corporate insolvency resolution process period.</p>	<p>Replacement of resolution professional by committee of creditors.</p>
	<p>27. (1) A corporate debtor or any financial creditor accounting for less than seventy five percent of the voting shares in the committee of creditors may, at any time during the corporate insolvency resolution process, file an application with the Adjudicating Authority to replace a resolution professional, if there is evidence to demonstrate that the resolution professional has -</p> <p>(a) committed material irregularities in the conduct of committee of creditors; or</p> <p>(b) not provided notice of meetings of the committee of creditors to the corporate debtor; or</p> <p>(c) provided incorrect information or omitted</p>	<p>Replacement of resolution professional by financial creditor or corporate debtor.</p>

	<p>material information from the information memorandum; or</p> <p>(d) provided additional information to any resolution applicant or third party which has not been provided to the committee of creditors or any other resolution professional; or</p> <p>(e) conducted the operations of the corporate debtor in a grossly negligent or fraudulent manner; or</p> <p>(f) failed to exercise a reasonable standard of care expected of such professionals in the performance of his powers and functions; or</p> <p>(g) lacked a particular or specialised qualification required; or</p> <p>(h) acted in a manner where his interests conflict with the interests of the corporate debtor, creditors or other stakeholders; or</p> <p>(i) committed any acts in contravention of law.</p> <p>(2) Within two days of the receipt of the application under sub-section (1), if the Adjudicating Authority is of the opinion that there is a <i>prime facie</i> case indicating the commission of any of the acts mentioned in sub-section (1), it shall accept the application and direct the committee of creditors to propose another resolution professional for conducting the corporate insolvency resolution process, or else it shall reject the application.</p> <p>(3) For the purpose of compliance with the directions of the Adjudicating Authority under clause (a) of sub-section (2), the committee of creditors shall adopt the same procedure to propose the resolution professional as laid down in section 22.</p> <p>(4) The resolution professional appointed under this section shall be entitled to exercise all the powers and perform the duties as are required to be</p>	
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	exercised or performed under this Act.	
	<p>28. (1) The resolution professional, during the corporate insolvency resolution process, shall not take any of the following actions without the prior approval of the committee of creditors:-</p> <ul style="list-style-type: none"> (a) raise any interim finance in excess of a threshold decided by the committee of creditors at their first meeting; (b) create any security interest over the assets of the corporate debtor; (c) change the capital structure of the corporate debtor, including by way of issuance of additional securities, creating a new class of securities or buying back or redemption of issued securities in case the corporate debtor is a company; (d) record any change in the ownership interest of the corporate debtor; (e) give instructions to financial institutions maintaining accounts of the corporate debtor for a debit transaction from any such accounts in excess of any threshold decided by the committee of creditors at their first meeting; (f) undertake affiliated or related party transaction; (g) amend the memorandum of association or articles of association or constitutional documents or partnership agreement as the case may be of the corporate debtor; (h) delegate authority of the resolution professional to any other person; (i) dispose off shares of any substantial shareholder or their nominees to third parties; (j) make any change in the management of the corporate debtor or its subsidiary; 	<p>Approval of committee of creditors for certain actions.</p>

	<ul style="list-style-type: none"> (k) transfer rights or financial debts or operational debts under material contracts otherwise than in the ordinary course of business; (l) make changes in the appointment or terms of contract of such personnel, as specified by the committee of creditors; or (m) make changes in the appointment or terms of contract of statutory auditors or internal auditors of the corporate debtor. <p>(2) The resolution professional shall convene a committee of creditors and seek the vote of the creditors prior to taking any of the actions under sub-section (1).</p> <p>(3) No action under sub-section (1) shall be approved by the committee of creditors unless approved by a vote of seventy five percent of the voting shares.</p> <p>(4) Where any action under sub-section (1) is taken by the resolution professional without seeking the approval of the committee of creditors in the manner as required in this section, such action shall be void.</p> <p>(5) The committee of creditors may report the actions of the resolution professional under sub-section (4) to the Board which may replace the resolution professional for undertaking such actions.</p>	
	<p>29. (1) The resolution professional shall prepare an information memorandum in such form and manner containing such relevant information as may be specified by the Board to enable a resolution applicant to make a resolution plan.</p> <p>(2) The resolution professional shall provide to the resolution applicant access to all relevant information in physical and electronic form subject to such resolution applicant-</p> <ul style="list-style-type: none"> (a) complying with provisions of law for the time being in force relating to confidentiality and insider trading; 	<p>Preparation of information memorandum.</p>

	<p>(b) agreeing to protect any intellectual property of the corporate debtor it may have access to; and</p> <p>(c) agreeing to not share relevant information with third parties unless clauses (a) and (b) of this sub-section are complied with.</p> <p><i>Explanation.</i> – For the purposes of this section, “relevant information” means the information required by the resolution applicant to make the resolution plan for the corporate debtor, which shall include the financial position of the corporate debtor, all information related to disputes by or against the corporate debtor and any other matter pertaining to the corporate debtor as may be specified.</p>	
	<p>30. (1) A resolution applicant may submit a resolution plan to the resolution professional prepared on the basis of the information memorandum.</p> <p>(2) The resolution professional shall review each resolution plan received by him to ensure that at a minimum, the resolution plan provides for-</p> <p>(a) the payment of insolvency resolution process costs in a manner specified by the Board which ensures that such costs are paid in priority to the repayment of other debts of the corporate debtor;</p> <p>(b) the repayment of the operational creditors in a manner specified by the Board; and</p> <p>(c) ensuring that it does not contravene any of the provisions of the law for the time being in force; and</p> <p>(d) meeting such other criteria as may be specified by the Board.</p> <p>(3) The resolution professional shall present to the committee of creditors each resolution plan which confirms the conditions referred to in sub-section (2).</p> <p>(4) The resolution applicant may attend the meeting of the committee of creditors where the resolution</p>	<p>Submission of resolution plan.</p>

	<p>plan of the applicant is presented:</p> <p><i>Provided</i> that the resolution applicant shall not have a right to vote at the meeting of the committee of creditors unless such resolution applicant is also a financial creditor.</p> <p>(5) The committee of creditors may approve the resolution plan by a vote of not less than seventy five per cent of voting share of the financial creditors.</p> <p>(6) The resolution professional shall submit the resolution plan as approved by the committee of creditors to the Adjudicating Authority.</p>	
	<p>31. (1) The Adjudicating Authority shall review the resolution plan submitted by the resolution professional to-</p> <p>(a) ensure that the resolution plan meets the requirements of sub-section (2) of section 30;</p> <p>(b) confirm that the resolution plan provides for the repayment of the operational creditors in such manner as specified by the Board which shall in no event be less than the amount the operational creditors would be paid in the event of a liquidation of the corporate debtor under section 54;</p> <p>(c) confirm that there is no material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period; and</p> <p>(d) confirm that it complies with such other conditions as may be specified by the Board.</p>	<p>Order of Adjudicating authority approving or rejecting resolution plan.</p>
	<p>32. (1) If the Adjudicating Authority is satisfied that the resolution plan conforms to requirements as referred to in sub-section (1) of section 31 it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, shareholders, creditors and guarantors and other</p>	<p>Effect of approval.</p>

	<p>stakeholders involved in the resolution plan.</p> <p>(2) After the order of approval under sub-section (1), -</p> <p>(a) the moratorium order passed by the Adjudicating Authority under section 14 shall cease to have effect; and</p> <p>(b) the resolution professional shall forward all records relating to the conduct of the corporate insolvency resolution process and the resolution plan to the Board to record on its data base of the information relating to such corporate insolvency resolution process.</p>	
	<p>CHAPTER III</p> <p>LIQUIDATION PROCESS</p>	
	<p>33. (1) If the Adjudicating Authority is of the opinion that the resolution plan does not conform to any of the requirements mentioned in sub-section (1) of section 31, it shall by order reject the resolution plan and such order shall provide for the following -</p> <p>(a) liquidation of the corporate debtor in the manner laid down in this Chapter;</p> <p>(b) a public announcement stating that the corporate debtor is in liquidation; and</p> <p>(c) intimation of such liquidation order to the authority with which the corporate debtor is registered.</p> <p>(2) Where the Adjudicating Authority does not receive a resolution plan under sub-section (7) of section 30 on or before the expiry of the maximum period permitted for completion of the corporate insolvency resolution process or the fast track corporate insolvency resolution process as the case may be, the Adjudicating Authority shall -</p> <p>(a) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;</p>	<p>Initiation of liquidation.</p>

	<p>(b) issue a public announcement stating that the corporate debtor is in liquidation; and</p> <p>(c) cause intimation thereof to be sent to the authority with which the corporate debtor is registered.</p> <p>(3) Where the committee of creditors by a vote of not less than seventy five per cent of voting share resolves to liquidate a corporate debtor at any time during the corporate insolvency resolution process or the fast track corporate insolvency resolution process but before the confirmation of any resolution plan, the Adjudicating Authority, on being intimated about such resolution, shall-</p> <p>(a) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;</p> <p>(b) issue a public announcement stating that the corporate debtor is in liquidation; and</p> <p>(c) cause intimation thereof to be sent to the authority with which the corporate debtor is registered.</p> <p>(4) Where the resolution plan approved by the Adjudicating Authority is contravened by the concerned corporate debtor, then any person other than the corporate debtor, whose interests are prejudicially affected by such contravention, may make an application to the Adjudicating Authority for an order under sub-section (5).</p> <p>(5) On an application under sub-section (4), if the Adjudicating Authority determines that the corporate debtor has contravened the provisions of the resolution plan, it shall:</p> <p>(a) pass an order requiring the corporate debtor to be liquidated in the manner as laid down in this Chapter;</p> <p>(b) issue a public announcement stating that the corporate debtor is in liquidation; and</p> <p>(c) cause intimation thereof to be sent to the</p>	
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	<p style="text-align: center;">authority with which the corporate debtor is registered.</p> <p>(6) Subject to section 53, when a liquidation order has been passed, no suit or other legal proceeding shall be commenced, or if pending at the date of the liquidation order, shall be proceeded with, by or against the corporate debtor:</p> <p><i>Provided</i> that nothing in sub-section (6) shall apply to any proceeding pending in appeal before the Supreme Court or a High Court:</p> <p><i>Provided</i> further that suit or other legal proceeding on behalf of the corporate debtor may be commenced by the liquidator with the prior approval of the Adjudicating Authority.</p> <p>(7) The liquidation order shall be deemed to be a notice of discharge to the officers, employees and workmen of the corporate debtor, except when the business of the corporate debtor is continued during the liquidation process by the liquidator.</p> <p>(8) Notwithstanding any terms contained in the resolution plan approved under Chapters I and II of this Part, on the appointment of a liquidator under this section, all powers of the board of directors, key managerial personnel and the partners of the corporate debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator:</p> <p><i>Provided</i> that the personnel of the corporate debtor shall extend all assistance and cooperation to the liquidator as may be required by him in managing the affairs of the corporate debtor and provisions of section 19 of this Act shall apply <i>mutatis mutandis</i> to this Chapter.</p>	
34.	(1) Where the Adjudicating Authority passes an order for liquidation of the corporate debtor under section 33, the resolution professional appointed for the corporate insolvency resolution process under Chapter II shall act as the liquidator for the purposes of liquidation unless replaced by the	Appointment of liquidator and fee to be paid.

	<p>Adjudicating Authority under sub-section (2).</p> <p>(2) The Adjudicating Authority may by order replace the resolution professional if-</p> <p>(a) the resolution plan submitted by the resolution professional under section 30 was rejected for failure to meet the requirements mentioned in sub-section (1) of section 31; or</p> <p>(b) the Board recommends the replacement of a resolution professional to the Adjudicating Authority for reasons to be recorded in writing.</p> <p>(3) For the purposes of sub-section (2), the Adjudicating Authority may direct the Board to propose another insolvency professional to be a liquidator.</p> <p>(4) The Board shall propose an insolvency professional within two days of the direction issued by the Adjudicating Authority under sub-section (3).</p> <p>(5) The Adjudicating Authority shall on receipt of the proposal of the Board for the appointment of an insolvency professional as liquidator, confirm such insolvency professional as the liquidator.</p>	
	<p>(6) An insolvency professional proposed to be appointed as a liquidator shall charge such fee for the conduct of the liquidation proceedings and in such proportion to the value of the liquidation trust assets as may be specified by the Board.</p> <p>(7) The fees for the conduct of the liquidation proceedings under sub-section (6) shall be paid to the liquidator from the proceeds of the liquidation trust assets in the manner set out in section 54.</p>	
<p>35.</p>	<p>(1) Subject to the directions of the Adjudicating Authority, the liquidator shall have the following powers and duties, namely: -</p> <p>(a) to verify all claims of all the creditors;</p>	<p>Powers and duties of liquidator.</p>

	<ul style="list-style-type: none">(b) to take into his custody or control all the property, effects and actionable claims to which the corporate debtor is or appears to be entitled to;(c) to evaluate and report the assets of such corporate debtor in the manner as may be specified by the Board;(d) to take such measures to protect and preserve the assets and properties of the corporate debtor as may be required;(e) to carry on the business of the corporate debtor for its beneficial liquidation as may be required;(f) to do all acts and to execute, in the name and on behalf of the corporate debtor, all deeds, receipts and other documents, and for the purpose, to use, when necessary, the corporate seal as applicable;(g) to sell the immovable and movable property and actionable claims of the corporate debtor in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels;(h) to draw, accept, make and endorse any negotiable instruments including bill of exchange, hundi or promissory note in the name and on behalf of the corporate debtor, with the same effect with respect to the liability as if such instruments had been drawn, accepted, made or endorsed by or on behalf of the corporate debtor in the ordinary course of its business;(i) to take out, in his official name, letter of administration to any deceased contributory and to do in his official name any other act necessary for obtaining payment of any money due from a	
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	<p>contributory or his estate which cannot be conveniently done in the name of the corporate debtor, and in all such cases, the money due shall, for the purpose of enabling the company liquidator to take out the letter of administration or recover the money, be deemed to be due to the company liquidator himself;</p> <ul style="list-style-type: none">(j) to obtain any professional assistance from any person or appoint any professional, in discharge of his duties, obligations and responsibilities;(k) to invite and settle claims of creditors and claimants and distribute proceeds in accordance with the provisions of this Act;(l) to institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name or on behalf of the company;(m) to investigate the financial affairs of the corporate debtor to determine undervalued or preferential transactions;(n) to take all such actions, steps, or to sign, execute and verify any paper, deed, document, application, petition, affidavit, bond or instrument as may be necessary for liquidation, distribution of assets and in discharge of his duties and obligations and functions as company liquidator;(o) to apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor;(p) to report the progress of the liquidation process in a manner as may be specified by the Board; and(q) to perform such other functions as may be specified by the Board. <p>(2) The liquidator shall have the power to consult any</p>	
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	<p>of the stakeholders entitled to a distribution under section 54 in the discharge of his duties and the performance of his functions:</p> <p><i>Provided</i> that any such consultation shall not be binding on the liquidator:</p> <p><i>Provided</i> further that the records of any such consultation shall be made available to all other stakeholders not so consulted, in a manner specified by the Board.</p> <p>(3) Notwithstanding the provisions of sub-section (1), the liquidator shall perform such other duties as the Adjudicating Authority may specify in this regard.</p>	
	<p>36. (1) For the purposes of liquidation, a trust shall be formed by the liquidator over the assets mentioned in sub-section (3), which will be called the liquidation trust in relation to the corporate debtor.</p> <p>(2) The liquidator shall be the fiduciary trustee of the liquidation trust and shall hold it for the benefit of all the creditors.</p>	<p>Liquidation trust.</p>
	<p>(3) Subject to sub-section (4), the liquidation trust shall comprise of all liquidation trust assets which shall include the following :-</p> <p>(a) any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board.;</p> <p>(b) assets that may or may not be in possession of the corporate debtor including but not limited to encumbered assets;</p> <p>(c) tangible assets, whether movable or immovable;</p> <p>(d) intangible assets including but not limited</p>	

	<p>to intellectual property, securities (including shares held in a subsidiary of the corporate debtor) and financial instruments, insurance policies, contractual rights;</p> <ul style="list-style-type: none"> (e) assets subject to the determination of ownership by the court or authority; (f) any assets or their value recovered through proceedings for avoidance of transactions in accordance with Chapter III; (g) any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest; (h) any other property belonging to or vested in the corporate debtor at the insolvency commencement date; and (i) all proceeds of liquidation as and when they are realised. <p>(4) The following shall not be included in the liquidation trust assets and shall not be used for recovery in the liquidation, namely:-</p> <ul style="list-style-type: none"> (a) assets owned by a third party which are in possession of the corporate debtor , including but not limited to- <ul style="list-style-type: none"> (i) assets held in trust for any third party ; (ii) bailment contracts; (iii) contributions in respect of employee pensions; or (iv) other contractual arrangements that do not stipulate transfer of title but only use of the assets ; (b) assets in security collateral held by financial services providers and are subject to netting and set-off in multi-lateral trading or clearing transactions; (c) personal assets of any shareholder or partner of a corporate debtor as the case 	
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	<p>may be provided such assets are not held on account of transactions that may be avoided under this Chapter ;</p> <p>(d) assets of any Indian or foreign subsidiary of the corporate debtor; or</p> <p>(e) any other assets as may be specified by the Board.</p>	
<p>37.</p>	<p>(1) Notwithstanding anything contained in any other law for the time being in force, the liquidator shall have the power to access any information systems for the purpose of admission and proof of claims and identification of the trust assets relating to the corporate debtor from the following sources, namely: -</p> <p>(a) an information utility;</p> <p>(b) credit information systems regulated under law for the time being in force ;</p> <p>(c) any agency of the Central, State or Local Government including any registration authorities;</p> <p>(e) information systems for financial and non-financial liabilities regulated under law for the time being in force;</p> <p>(f) information systems for securities and assets posted as security interest regulated under law for the time being in force;</p> <p>(g) any database maintained by the Board; and</p> <p>(h) any other source as may be specified by the Board.</p>	<p>Powers of liquidator to access information.</p>
<p>38.</p>	<p>(1) The liquidator shall receive or collect the claims of creditors within a period of twenty-one days from the date of the commencement of the liquidation process.</p> <p>(2) A financial creditor may submit a claim to the liquidator by providing a record of such claim stored with an information utility:</p>	<p>Consolidation of claims.</p>

	<p><i>Provided</i> that where the information relating to the claim is not stored in the information utility, the financial creditor may submit the claim in the same manner provided for the submission of claims for the operational creditor under sub-section (3).</p> <p>(3) An operational creditor may submit a claim to the liquidator in such form and in such manner and along with such supporting documents required to prove the claim as may be specified by the Board.</p> <p>(4) A creditor who is partly a financial creditor and partly an operational creditor shall submit claims to the liquidator to the extent of his financial debt in the manner as provided in sub-section (3) and to the extent of his operational debt under sub-section (4).</p> <p>(5) A creditor may withdraw or vary his claim under this section within fourteen days of its submission.</p>	
	<p>39. (1) The liquidator shall verify the claims submitted under section 38 within such time as specified by the Board.</p> <p>(2) The liquidator may require any creditor or the corporate debtor or any other person to produce any other document or evidence which he thinks necessary for the purpose of verifying, the whole or any part of the claim.</p>	<p>Verification of claims.</p>
	<p>40. (1) The liquidator may, after verification of claims under this section, either admit or reject the claim, in whole or in part, as the case may be:</p> <p><i>Provided</i> that where the liquidator rejects a claim, he shall record in writing the reasons for such rejection.</p> <p>(2) The liquidator shall communicate admission or rejection of such claims to the creditor and corporate debtor within three days.</p> <p>(3) A creditor may appeal to the Adjudicating Authority against the decision of the liquidator rejecting the claims within fourteen days of the</p>	<p>Admission or rejection of claims.</p>

	receipt of such decision.	
	41. The liquidator shall determine the value of claims admitted under section 40 in such manner as may be specified by the Board.	Valuation of claims.
	<p>42. (1) Subject to section 43, where the liquidator or the resolution professional as the case may be is of the opinion that the corporate debtor has at a relevant time given a preference to any person in the manner laid down in sub-section (2), he shall apply to the Adjudicating Authority, which may pass one or more of the orders under in Section 44.</p> <p>(2) subject to sub-section (3), a corporate debtor shall be deemed to have given a preference if-</p> <p>(a) there is transfer of property or an interest thereof of the corporate debtor to a person as referred to in sub-section (3);</p> <p>(b) the transfer under clause (a) was made for or on account of an antecedent financial debt or operational debt or other liabilities owed by the corporate debtor for the benefit of creditor or a surety or a guarantor; and</p> <p>(d) the transfer has the effect of putting creditor or a surety or a guarantor into a better position than the position he would have been if such transfer had not been made.</p> <p>(3) For the purposes of this section, preference shall not include the following transfers -</p> <p>(a) transfer made for payment of a financial debt or an operational debt incurred by corporate debtor and is in fact a substantially contemporaneous exchange;</p> <p>(b) transfer made in the ordinary course of the business or financial affairs of the corporate debtor or the transferee;</p> <p>(c) any transfer creating a security interest in</p>	Avoidance of preferential transactions.

	<p>property acquired by the corporate debtor to the extent –</p> <ul style="list-style-type: none"> (i) such security interest secures new value and was given at or after the signing of a security agreement that contains a description of such property as security interest; (ii) was in fact used by corporate debtor to acquire such property; and (iii) transfer was registered with an information utility on or before thirty days after the corporate debtor receives possession of such property. <p>(4) The fact that any transfer is made in pursuance of the order of a court does not, preclude such transfer to be deemed as giving of preference by the corporate debtor.</p> <p><i>Explanation.</i> – For the purpose of this section “new value” means money or its worth in goods, services, or new credit, or release by the transferee of property previously transferred to such transferee in a transaction that is neither void nor voidable by the liquidator or the resolution professional under this Act, including proceeds of such property, but does not include a financial debt or operational debt substituted for existing financial debt or operational debt.</p>	
	<p>43. (1) A preference shall be deemed to be given at a relevant time, where -</p> <ul style="list-style-type: none"> (a) if a preference is given to a related party (other than by reason only of being its employee), then during the period of two years preceding the insolvency commencement date; or if a preference is given to a related party, then during the period of one year preceding the insolvency commencement date, and (b) and in either case, the preference was given at a time when the corporate insolvency resolution process in respect of the corporate debtor could have been 	<p>Relevant time for avoidance of preferences.</p>

	initiated.	
	<p>44. (1) An order made with respect to a preference given by a corporate debtor may:</p> <ul style="list-style-type: none"> (a) require any property transferred in connection with the giving of the preference to be vested in the corporate debtor; (b) require any property to be so vested if it represents in the hands of any person, the application either of the proceeds of sale of property so transferred or of money so transferred; (c) release or discharge (in whole or in part) of any security interest created by the corporate debtor; (d) require any person to pay, in respect of benefits received by him from the corporate debtor, such sums to the liquidator or the resolution professional, as the Adjudicating Authority may direct; (e) provide any personal guarantor whose financial debts or operational debts owed to any person were released or discharged (in whole or in part) by the giving of the preference to be under such new or revived financial debts or operational debts to that person as the Adjudicating Authority deems appropriate; (f) provide for security for the discharge of any financial debt or operational debt imposed by or arising under the order, for such a financial debt or an operational debt to be charged on any property and for the security or charge to have the same priority as a security or charge released or discharged wholly or in part by the giving of the preference; and (g) provide for the extent to which any person whose property is so vested in the 	<p>Orders in case of preferential transactions.</p>

	<p>corporate debtor, or on whom financial debts or operational debts are imposed by the order, are to be proved in the liquidation or the corporate insolvency resolution process for financial debts or operational debts which arose from, or were released or discharged wholly or in part by the giving of the preference.</p> <p>(2) An order under this section shall not -</p> <p>(a) prejudice any interest in property which was acquired from a person other than the corporate debtor and was acquired in good faith and for value, or prejudice any interest deriving from such an interest; and</p> <p>(b) require a person who received a benefit from the preference in good faith and for value to pay a sum to the liquidator or the resolution professional, except where the payment is to be in respect of a preference given to that person at a time when he was a creditor of the corporate debtor.</p> <p>(3) Where a person has acquired an interest in property from a person other than the corporate debtor in question, or has received a benefit from the preference, and at the time of that acquisition or receipt-</p> <p>(a) he had notice of the relevant surrounding circumstances and of the relevant proceedings, or</p> <p>(b) he was a related party with respect to the corporate debtor in question or the person to whom that the corporate debtor gave the preference, then, unless the contrary is shown, it shall be presumed for the purposes of this section that the interest was acquired or the benefit was received otherwise than in good faith.</p> <p><i>Explanation.</i> – (1) For the purposes of this section-</p> <p>(a) the relevant surrounding circumstances are</p>	
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	<p>the circumstances which amounted to the giving of the preference by the corporate debtor in question; and</p> <p>(b) a person has notice of the relevant proceedings if he is aware that an application for the initiation of a corporate insolvency resolution process has been made, or that liquidation or corporate insolvency resolution process has commenced.</p>	
	<p>45. (1) If the liquidator or the resolution professional as the case may be, on an examination of the transactions of the corporate debtor determines that certain transactions were made during the relevant time which were undervalued, he shall make an application to the Adjudicating Authority to declare such transactions as void and reverse the effect of such transaction in accordance with this Chapter.</p> <p>(2) A transaction shall be considered undervalued where-</p> <p>(a) the corporate debtor makes a gift to a person; or</p> <p>(b) the corporate debtor enters into a transaction that provides for the corporate debtor, to receive no consideration; or</p> <p>(c) the corporate debtor enters into a transaction with a person which involves the transfer of one or more assets by the corporate debtor for a consideration the value of which is significantly less than the value of the consideration provided by the corporate debtor.</p>	<p>Avoidance of undervalued transactions.</p>
	<p>46. (1) In an application for avoiding a transaction at undervalue with a person other than a related party, the liquidator or the resolution professional as the case may be, shall demonstrate that the transaction occurred within the period of one year preceding</p>	<p>Relation-back period for avoidable transactions.</p>

	<p>the insolvency commencement date.</p> <p>(2) In an application for avoiding a transaction at undervalue with a person which is a related party, the liquidator or the resolution professional as the case may be, shall demonstrate that the transaction occurred within the period of two years preceding the insolvency commencement date.</p> <p>(3) The Adjudicating Authority may require an independent expert to adduce evidence relating to the value of the transactions mentioned in this section.</p> <p>(4) A person seeking to defend an undervalued transaction shall demonstrate to the Adjudicating Authority that such transaction was undertaken -</p>	
	<p>(a) in the ordinary course of business of the corporate debtor; and</p> <p>(b) for benefit of the corporate debtor.</p>	
	<p>47. (1) Where an undervalued transaction has taken place and the liquidator or the resolution professional as the case may be, has not reported it to the Adjudicating Authority, a creditor, shareholder or a partner of a corporate debtor as the case may be, may make an application to the Adjudicating Authority to declare such transactions void and reverse their effect in accordance with this Chapter.</p> <p>(2) The Adjudicating Authority shall examine the application made under sub-section (1) and if it is satisfied that -</p> <p>(a) undervalued transactions had occurred; and</p> <p>(b) liquidator or the resolution professional as the case may be, after having sufficient information or opportunity to avail information of such transactions did not report such transaction to the Adjudicating Authority,</p> <p>it shall pass an order-</p>	<p>Application by creditor in cases of undervalued transactions.</p>

	<ul style="list-style-type: none"> (a) restoring the position as it existed before such transactions and reversing the effects thereof in the manner as laid down in section 45 and 48; (b) requiring the Board to initiate disciplinary proceedings against the liquidator or the resolution professional as the case may be. 	
<p>48.</p>	<p>(1) The order of the Adjudicating Authority under subsection (1) of section 45 may provide for the following:-</p> <ul style="list-style-type: none"> (a) require any property transferred as part of the transaction, to be vested in the corporate debtor; (b) release or discharge (in whole or in part) any security interest granted by the corporate debtor; (c) require any person to pay such sums, in respect of benefits received by such person, to the liquidator or the resolution professional as the case may be, as the Adjudicating Authority may direct; or (d) require the payment of such consideration for the transaction as may be determined by an independent expert leading evidence. 	<p>Effect of order under section 45.</p>
<p>49.</p>	<p>(1) Where the corporate debtor has entered into an undervalued transaction and the Adjudicating Authority is satisfied that such transaction was deliberately entered into by such corporate debtor -</p> <ul style="list-style-type: none"> (a) for putting assets of the corporate debtor beyond the reach of any person who is entitled to make a claim against the corporate debtor; or (b) in order to adversely affect the interests of such a person in relation to the claim, <p>the Adjudicating Authority shall make an order-</p> <ul style="list-style-type: none"> (a) restoring the position to what it would have been if the transaction had not been entered 	<p>Transactions defrauding creditors.</p>

	<p>into; and</p> <p>(b) protecting the interests of persons who are victims of such transactions:</p> <p><i>Provided</i> that an order under this section -</p> <p>(a) shall not prejudice any interest in property which was acquired from a person other than the corporate debtor and was acquired in good faith, for value and without notice of the relevant circumstances, or prejudice any interest deriving from such an interest, and</p> <p>(b) shall not require a person who received a benefit from the transaction in good faith, for value and without notice of the relevant circumstances to pay any sum unless he was a party to the transaction.</p> <p><i>Explanation.</i> – For the purposes of this section, the relevant circumstances in relation to a transaction are the circumstances by virtue of which an order under this section may be made in respect of the transaction.</p>	
	<p>50. (1) Where the corporate debtor has been part of a transaction involving the receipt of financial or operational debt in the period within two years preceding the insolvency commencement date, the liquidator or the resolution professional as the case may be, may make an application for avoidance of such transaction to the Adjudicating Authority if the terms of such credit transaction required exorbitant payments to be made by the corporate debtor.</p> <p>(2) The Board may specify the circumstances in which a transaction shall be covered under sub-section (1).</p>	<p>Extortionate credit transactions.</p>
	<p>51 (1) Where a creditor has transacted with the corporate debtor and such transaction is sought to be avoided under section 50, it shall be a defence for the</p>	<p>Defence of extortionate credit</p>

	<p>creditor to demonstrate that such transaction was in the ordinary course of business and was for the benefit of the corporate debtor.</p>	<p>transaction.</p>
	<p>52. (1) The Adjudicating Authority after examining the avoidance application made under section 50 in respect of an extortionate credit transaction shall make an order –</p> <p>(a) to restore the position prior to such transaction;</p> <p>(b) set aside the whole or part of the debt created on account of the extortionate credit transaction;</p> <p>(c) modify the terms of the transaction,;</p> <p>(d) require any person who is, or was, a party to the transaction to repay any amount received by such person; or</p> <p>(d) require any security interest that was created as part of the extortionate credit transaction to be relinquished to the liquidator or the resolution professional as the case may be.</p>	<p>Orders of Adjudicating Authority in respect of extortionate credit transactions.</p>
	<p>53. (1) A secured creditor in the liquidation proceedings may-</p> <p>(a) relinquish its security interest to the liquidation trust and receive proceeds from the sale of assets by the liquidator in the manner specified in section 54; or</p> <p>(b) realise its security interest in the manner specified in this section.</p> <p>(2) Where the secured creditor realises security interest under clause (b) of sub-section (1), he shall inform the liquidator or the resolution professional as the case may be and identify the asset subject to such security interest to be realised.</p> <p>(3) Before any security interest is realised by the secured creditor under this section, the liquidator shall verify if the existence of such security interest</p>	<p>Secured creditor in liquidation proceedings.</p>

	<p>secured creditor to realise only such security interest the existence of which may be proved either –</p> <ul style="list-style-type: none">(a) by the records of such security interest maintained by an information utility; or(b) by such other means as may be specified by the Board. <p>(4) A secured creditor may enforce, realise, settle, compromise or deal with the secured assets in accordance with such law as applicable to the security interest being realised and to the secured creditor and apply the proceeds received from such enforcement to recover the debts due.</p> <p>(5) If in the course of realising a secured asset, any secured creditor faces resistance from the corporate debtor or any person connected therewith in taking possession of, selling or otherwise disposing off the security, the secured creditor may make an application to the Adjudicating Authority to permit the secured creditor to realise the secured asset in accordance with law for the time being in force.</p> <p>(6) The Adjudicating Authority, on the receipt of an application from a secured creditor under sub-section (5) may pass such order as may be necessary to permit a secured creditor to realise secured assets in accordance with law for the time being in force.</p> <p>(7) Where the enforcement of the security interest under sub-section (4) yields an amount by way of proceeds which is in excess of the debts due to the secured creditor, the secured creditor shall-</p> <ul style="list-style-type: none">(a) account to the liquidator for such surplus; and(b) tender to the liquidator any surplus funds received from the enforcement of such secured assets. <p>(8) The amount of insolvency resolution process costs, due from secured creditors who realise their security interests in the manner provided in this</p>	
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	<p>section, shall be deducted from the proceeds of any realisation by such secured creditors, and they shall transfer such amounts to the liquidator to be included in the liquidation trust.</p> <p>(9) Where the proceeds of the realisation of the secured assets are not adequate to repay debts owed to the secured creditor, the unpaid debts of such secured creditor shall be paid by the liquidator in the manner specified in clause (e) of sub-section (1) of section 54.</p>	
	<p>54. (1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation trust assets shall be distributed in the following order of priority and within such period as may be specified:</p> <p>(a) the insolvency resolution process costs and the liquidation costs paid in full;</p> <p>(b) the following debts which shall rank equally between and among the following :-</p> <p>(i) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 53; and</p> <p>(ii) workmen's dues for the period of three months before the liquidation commencement date;</p> <p>(c) wages and any unpaid dues owed to employees other than workmen for the period of three months before the liquidation commencement date;</p> <p>(d) the following classes of creditors shall be paid equally between and among the following :-</p> <p>(i) financial debts owed to unsecured creditors; and</p>	<p>Distribution of assets.</p>

	<p>(ii) workmen's dues in respect of the period of nine months beginning from twelve months before the liquidation commencement date and ending three months before the liquidation commencement date;</p> <p>(e) the following dues rank equally between and among the following :-</p> <p>(i) any amount due to the State Government and the Central Government in respect of the whole or any part of the period of two years before the liquidation commencement date;</p> <p>(ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;</p> <p>(f) any remaining debts;</p> <p>(g) preference shareholders, if any; and</p> <p>(h) equity shareholders or partners, as the case may be.</p> <p>(2) Any contractual arrangements between recipients under sub-section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.</p> <p>(3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction.</p> <p>(4) Where the affairs of the corporate debtor have been completely wound up, and its assets completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate debtor.</p> <p>(5) The Adjudicating Authority shall on application filed by the liquidator under sub-section (4) order that the corporate debtor shall be dissolved from</p>	
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	<p>the date of that order and the corporate debtor shall be dissolved accordingly.</p> <p>(6) A copy of an order under sub-section (5) shall within seven days from the date of such order, be forwarded to the authority with which the corporate debtor is registered.</p> <p><i>Explanation.</i> – For the purpose of this section:</p> <p>(i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients if the proceeds are insufficient to meet the financial debts or operational debts in full; and</p> <p>(ii) the term “workmen’s dues” shall have the same meaning as assigned to it in the Companies Act, 2013 to be applied <i>mutatis mutandis</i> to this section.</p>	
	<p>CHAPTER IV</p> <p>FAST TRACK CORPORATE INSOLVENCY</p> <p>RESOLUTION PROCESS</p>	
	<p>55. (1) A corporate insolvency resolution process carried out in accordance with this Chapter shall be called a fast track corporate insolvency resolution process.</p> <p>(2) Subject to sub-section (3), the fast track corporate insolvency resolution process shall be completed within a period of ninety days from the insolvency commencement date.</p> <p>(3) The resolution professional shall file an application to the Adjudicating Authority to extend the period of the fast track corporate insolvency resolution process beyond ninety days if instructed to do so by way of a resolution passed at a meeting of the committee of creditors and supported by a vote of seventy five percent of the voting share.</p> <p>(4) On an application under sub-section (3) if the Adjudicating Authority determines that the case is of such complexity that an orderly fast track</p>	<p>Fast track corporate insolvency resolution process.</p>

	<p>corporate insolvency resolution process cannot be completed within ninety days, it may by order extend the duration of such process beyond ninety days:</p> <p><i>Provided</i> that any extension of the fast track corporate insolvency resolution process period granted by the Adjudicating Authority under this section shall not be beyond a period of forty five days:</p> <p><i>Provided</i> further that any extension of the fast track corporate insolvency resolution process under this section shall not be granted more than once.</p>	
	<p>56. (1) An application for fast track corporate insolvency resolution process may be made in respect of the following corporate debtors, namely:-</p> <p>(a) a corporate debtor with assets and income below a level as may be notified by the Central Government; or</p> <p>(b) a corporate debtor with such class of creditors or such amount of debt as may be notified by the Central Government; or</p> <p>(c) such other category of corporate persons as may be notified by the Central Government.</p>	<p>Eligibility of corporate debtor for fast Track corporate insolvency resolution process.</p>
	<p>57. (1) An application for fast track corporate insolvency resolution process may be initiated by a creditor or corporate debtor as the case may be, by furnishing:</p> <p>(a) the proof of the existence of default as evidenced by records available with an information utility or such other means as may be specified by the Board; and</p> <p>(b) such other information as may be specified by the Board to establish that the corporate debtor is eligible for fast track corporate insolvency resolution process.</p>	<p>Manner of initiating fast track corporate insolvency resolution process.</p>
	<p>58. The process for conducting an corporate insolvency resolution process under Chapter II and the provisions relating to offences and penalties under Chapter VII shall</p>	<p>Applicability of Chapter II to this</p>

	apply <i>mutatis mutandis</i> to this Chapter.	Chapter
	CHAPTER V VOLUNTARY LIQUIDATION	
59.	<p>(1) A corporate person in respect of whom a default has not occurred and who intends to liquidate itself voluntarily may initiate voluntary liquidation proceedings under the provisions of this Chapter.</p> <p>(2) The process for voluntary liquidation of a corporate person under sub-section (1), shall meet such conditions and procedural requirements as may be specified by the Board.</p> <p>(3) Without prejudice to sub-section (2), voluntary liquidation proceedings of a corporate person registered as a company shall meet the following conditions:</p> <p>(a) a declaration from majority of the directors of the company verified by an affidavit stating that –</p> <p style="padding-left: 40px;">(i) they have made a full inquiry into the affairs of the company and they have formed an opinion that either the company has no debt or that it will be able to pay its debts in full from the proceeds of assets sold in the voluntary liquidation; and</p> <p style="padding-left: 40px;">(ii) the company is not being liquidated to defraud any person;</p> <p>(b) the declaration under sub-clause (a) shall be accompanied with the following documents:-</p> <p style="padding-left: 40px;">(i) audited financial statements and record of business operations of the company for the previous two years or for the period since its incorporation, whichever is lesser;</p> <p style="padding-left: 40px;">(ii) a report of the valuation of the assets of the company, if any</p>	Voluntary liquidation

	<p style="text-align: center;">prepared by a registered valuer;</p> <p>(c) within four weeks of a declaration under sub-clause (a), there shall be -</p> <p style="padding-left: 40px;">(i) a special resolution of the shareholders of the company requiring the corporate debtor to be liquidated voluntarily and appointing an insolvency professional to act as the liquidator; or</p> <p style="padding-left: 40px;">(ii) a resolution of the shareholders of the company in a general meeting requiring the company to be wound up voluntarily as a result of expiry of the period of its duration, if any, fixed by its articles or on the occurrence of any event in respect of which the articles provide that the company, as the case may be and appointing an insolvency professional to act as the liquidator; and</p> <p>(d) if the company owes any debt to any person, within two days of a resolution under sub-clause (c), creditors representing two-thirds in value of the debt of the company shall have supported such resolution.</p> <p>(4) The company shall notify the Registrar of Companies and the Board about the shareholder resolution to liquidate the company within two days of such resolution or the subsequent approval by the creditors, as the case may be.</p> <p>(5) Subject to approval of the creditors under sub-clause (c) of sub-section (3), the voluntary liquidation proceedings in respect of a company shall be deemed to have commenced from the date of passing of the resolution under sub-clause (b) of sub-section (3).</p> <p>(6) The provisions of sections 35 to 54 of Chapter III and Chapter VII shall apply to voluntary liquidation proceedings for corporate persons under this Chapter <i>mutatis mutandis</i> and the reference to</p>	
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	<p>insolvency commencement date under any of the aforesaid sections shall be construed as the commencement date for voluntary liquidation under this Chapter.</p> <p>(7) Where the affairs of the corporate person have been completely wound up, and its assets completely liquidated, the liquidator shall make an application to the Adjudicating Authority for the dissolution of such corporate person.</p> <p>(8) The Adjudicating Authority shall on application filed by the liquidator under sub-section (7) order that the corporate debtor shall be dissolved from the date of that order and the corporate debtor shall be dissolved accordingly.</p> <p>(9) A copy of an order under sub-section (8) shall within seven days from the date of such order, be forwarded to the authority with which the corporate person is registered.</p>	
	<p>CHAPTER VI</p> <p>ADJUDICATING AUTHORITY FOR CORPORATE PERSONS</p>	
	<p>60. (1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons, including corporate debtors, shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of a company is located and can entertain an application under this Act regarding such corporate debtor or corporate person.</p> <p>(2) Without prejudice to sub-section (1) and notwithstanding anything to the contrary contained in this Act, where a corporate insolvency resolution process or liquidation proceeding of a corporate debtor is pending before National Company Law Tribunal -</p> <p>(a) an insolvency resolution process or bankruptcy proceeding of a personal guarantor of such corporate debtor must be</p>	<p>Adjudicating Authority for corporate persons.</p>

	<p>filed before the National Company Law Tribunal and at any point of time during the pendency of a corporate insolvency resolution process or liquidation proceeding of a corporate debtor before National Company Law Tribunal, the National Company Law Tribunal may pass an order transferring to itself an insolvency resolution process or bankruptcy proceeding of a personal guarantor of the corporate debtor pending in Debt Recovery Tribunal; and</p> <p>(b) the National Company Law Tribunal shall be vested with all the powers of the Debt Recovery Tribunal as contemplated under Part III of this Act for the purpose of clause (a) of this sub-section.</p>	
	<p>(3) Notwithstanding anything to the contrary contained in any other law for the time being in force, the Adjudicating Authority of the National Company Law Tribunal shall, have jurisdiction to entertain or dispose of -</p> <p>(a) any suit or proceeding by or against the corporate debtor or corporate person;</p> <p>(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its branches in India; and</p> <p>(c) any question of priorities or any other question whatsoever, whether of law or facts, arising out of or in relation to the individual debtor of the corporate debtor or corporate person.</p>	
	<p>(4) The National Company Law Tribunal shall have jurisdiction to entertain or dispose of any suit, proceeding, claim or question under sub-section (3) whether such suit, proceeding, claim or question has been instituted or has arisen on, before or after the date of commencement of insolvency or</p>	

	liquidation process.	
	(5) No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken, in pursuance of any power conferred on the National Company Law Tribunal or the National Company Law Appellate Tribunal by or under this Act.	
	(6) Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded.	
	61. (1) Notwithstanding anything to the contrary contained under the Companies Act 2013, an appeal from an order of the National Company Law Tribunal under this Act shall be filed within forty five days before the National Company Law Appellate Tribunal. Provided an appeal against a liquidation order passed under section 33 may only be admitted on grounds of material irregularity or fraud committed in relation to such a liquidation order.	Appellate Authority.
	(2) The National Company Law Appellate Tribunal may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within forty five days, allow the appeal to be filed within a further period not exceeding fifteen days.	
	(3) An appeal from an order of the National Company Law Appellate Tribunal on a question of law under this Act shall be filed within ninety days before the Supreme Court.	
	62. The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within ninety days, allow the	Appeal to Supreme Court.

	appeal to be filed within a further period not exceeding thirty days.	
63.	No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which National Company Law Tribunal or the National Company Law Appellate Tribunal has jurisdiction under this Act.	Civil court not to have jurisdiction.
64.	Notwithstanding anything contained in the Companies Act, 2013, where an application is not disposed of or order is not passed within the period specified in the Act, the National Company Law Tribunal or the National Company Law Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified; and the President of the National Company Law Tribunal or the Chairperson of the National Company Law Appellate Tribunal, as the case may be, may, after taking into account the reasons so recorded, extend the period specified in the Act by a period not exceeding five days.	Expeditious disposal of applications.
65.	<p>(1) If, during the conduct of a corporate insolvency resolution process or a liquidation process, an insolvency professional finds that the initiation of the corporate insolvency resolution process by a creditor or a corporate debtor, as the case may be, was fraudulent and/or was initiated with malicious intent for any purpose other than the resolution of an insolvency, the insolvency professional shall make an application to the Adjudicating Authority for an order under this section.</p> <p>(2) If, during the conduct of a voluntary liquidation process, the liquidator finds that the initiation of the voluntary liquidation process by the corporate debtor was fraudulent and/or was initiated with the intent for defrauding any person, the liquidator may make an application to the Adjudicating Authority for an order under this section.</p> <p>(3) If the Adjudicating Authority passes an order that the finding of the resolution professional or the</p>	Fraudulent or malicious initiation of proceedings.

	<p>liquidator under sub-section (1) or (2), as the case may be, is accurate, any person who knowingly and wilfully authorised or permitted such conduct by the corporate debtor or the creditor, as the case may be, shall be liable for a penalty which shall not be less than one lakh rupees but which may extend to three lakh rupees.</p>	
<p>66.</p>	<p>(1) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or creditors of any other person, or for any fraudulent purpose, then the Adjudicating Authority on the application of the resolution professional may order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions (if any) to the assets of the corporate debtor as the Adjudicating Authority may deem fit.</p>	<p>Fraudulent trading or wrongful trading.</p>
	<p>(2) If during the corporate insolvency resolution process it is found that sub-section (3) of this section applies in relation to a person who is or has been a director or partner of the corporate debtor as the case may be, the Adjudicating Authority, on the application of the resolution professional, may order that that person shall be liable to make such contribution (if any) to the assets of the corporate debtor as the Adjudicating Authority may deem fit.</p> <p>(3) This sub-section applies in relation to a person if—</p> <p>(a) before the insolvency commencement date, that person knew or ought to have known that the commencement of a corporate insolvency resolution process was imminent in respect of such corporate debtor; and</p> <p>(b) that person was a director or a partner of the corporate debtor, as the case may be, at that time:</p>	

	<p><i>Provided</i> that the Adjudicating Authority shall not make an order under sub-section (2) with respect to any person if it is satisfied that after the conditions mentioned in clause (a) of sub-section (3) were first satisfied in relation to that person, that person exercised due diligence in minimising the potential loss to the creditors of the corporate debtor.</p> <p><i>Explanation.</i> – For the purposes of this section a person shall be deemed to have exercised due diligence if such diligence was reasonably expected of a person carrying out the same functions as are carried out by that director or partner as the case may be in relation to the corporate debtor.</p>	
	<p>67. (1) Where the Adjudicating Authority passes an order under sub-section (1) or sub-section (2) of section 66, as the case may be, it may give such further directions as it may deem appropriate for giving effect to the order, and in particular, the Adjudicating Authority may—</p> <p>(a) provide for the liability of any person under the order to be a charge on any debt or obligation due from the corporate debtor to him, or on any mortgage or charge or any interest in a mortgage or charge on assets of the corporate debtor held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf; and</p> <p>(b) from time to time, make such further directions as may be necessary for enforcing any charge imposed under this section.</p> <p><i>Explanation.</i> – For the purposes of this section, “assignee” includes a person to whom or in whose favour, by the directions of the person (made liable under clause (a) of this sub-section), the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration given in good faith and without notice of any of the</p>	<p>Proceedings under section 66.</p>

	<p>grounds on which the declaration has been made.</p> <p>(2) Where the Adjudicating Authority makes an order under sub-section (1) or (2) of section 66, as the case may be, in relation to a person who is a creditor of the corporate debtor, it may direct that the whole or any part of any debt owed by the corporate debtor to that person and any interest thereon shall rank in priority after all other debts owed by the corporate debtor and after any interest on those debts.</p>	
	<p>CHAPTER VII</p> <p>OFFENCES AND PENALTIES</p>	
	<p>68. Where any officer of the corporate debtor has –</p> <p>(i) within the twelve months immediately preceding the insolvency commencement date -</p> <p>(a) wilfully concealed any part of the property of the corporate debtor or concealed any debt due to or from the corporate debtor, of such value as may be specified, or</p> <p>(b) fraudulently removed any part of the property of the corporate debtor of such value as may be specified, or</p> <p>(c) wilfully concealed, destroyed, mutilated or falsified any book or paper affecting or relating to the property of the corporate debtor or its affairs, or</p> <p>(d) wilfully made any false entry in any book or paper affecting or relating to the property of the corporate debtor or its affairs, or</p> <p>(e) fraudulently parted with, altered or made any omission in any document affecting or relating to the property of the corporate debtor or its affairs, or</p> <p>(f) wilfully created any security interest over, transferred or disposed of any property of the corporate debtor which has been</p>	<p>Punishment for concealment of property in anticipation of winding up.</p>

	<p>obtained on credit and has not been paid for unless the pawning, pledging or disposal was in the ordinary course of the business of the corporate debtor, or</p> <p>(g) the knowledge of the doing by others of any of the acts mentioned in clauses (c), (d) or (e);</p> <p>(ii) at any time after the insolvency commencement date, committed any of the acts mentioned in sub-clause (a) to (f) of clause (i), or has the knowledge of the doing by others of any of the things mentioned in sub-clauses (c) to (e) of clause (i); or</p> <p>(iii) at any time after the insolvency commencement date, taken in pawn or pledge, or otherwise receives, the property knowing it to be so secured, transferred or disposed,</p> <p>he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees:</p> <p><i>Provided</i> that nothing in this section shall render a person liable to any punishment under this section if he proves that he had no intent to defraud or to conceal the state of affairs of the corporate debtor.</p>	
69.	<p>(1) On or after the insolvency commencement date, if an officer of the corporate debtor -</p> <p>(a) has made or caused to be made any gift or transfer of, or charge on, or has caused or connived at the in the execution of a decree or order against, the property of the corporate debtor,</p> <p>(b) has concealed or removed any part of the property of the corporate debtor since, or within two months before, the date of any unsatisfied judgment, decree or order for payment of money obtained against the</p>	<p>Punishment for transactions defrauding creditors.</p>

	<p>corporate debtor,</p> <p>he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees:</p> <p><i>Provided</i> that a person shall not be punishable under this section if the acts mentioned in clause (a) of sub-section (1) were committed more than five years before the insolvency commencement date; or if he proves that, at the time of those acts, he had no intent to defraud the creditors of the corporate debtor.</p>	
	<p>70. (1) On or after the insolvency commencement date, where an officer of the corporate debtor—</p> <p>(a) does not disclose to the resolution professional all the property of the corporate debtor, and how, to whom, for what consideration and when the corporate debtor disposed of any part of that property (except such part as has been disposed of in the ordinary course of the business of the corporate debtor), or any information as the resolution professional may require; or</p> <p>(b) does not deliver to the resolution professional (or as he directs) all or part of the property of the corporate debtor as is in his control or custody, and which he is required to deliver; or</p> <p>(c) does not deliver to the resolution professional all books and papers in his control or custody belonging to the corporate debtor and which he is required to deliver; or</p> <p>(d) fails to inform the resolution professional of his knowledge that a debt has been falsely proved by any person during the corporate insolvency resolution process, as soon as practicable; or</p> <p>(e) prevents the production of any book or</p>	<p>Punishment for misconduct in course of corporate insolvency resolution process.</p>

	<p>paper affecting or relating to the property or affairs of the corporate debtor; or</p> <p>(f) attempts to account for any part of the property of the corporate debtor by fictitious losses or expenses, or if he has so attempted at any meeting of the creditors of the corporate debtor within the twelve months immediately preceding the insolvency commencement date,</p> <p>he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees:</p> <p><i>Provided</i> that nothing in this section shall render a person liable to any punishment under this section if he proves that he had no intent to defraud or to conceal the state of affairs of the corporate debtor.</p>	
	<p>71. On and after the insolvency commencement date, where any person destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is in the knowledge of making of any false or fraudulent entry in any register, book of account or document belonging to the corporate debtor with intent to defraud or deceive any person he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.</p>	<p>Punishment for falsification of books of corporate debtor</p>
	<p>72. Where an officer of the corporate debtor makes any material and wilful omission in any statement relating to the affairs of the corporate debtor, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees:</p> <p><i>Provided</i> that a person shall not be liable for punishment under this section if he proves that he had no intent to defraud.</p>	<p>Punishment for wilful and material omissions from statements relating to affairs of corporate debtor</p>
	<p>73. (1) Where any officer of the corporate debtor —</p>	<p>Punishment for</p>

	<p>(a) on or after the insolvency commencement date, makes a false representation or commits any fraud for the purpose of obtaining the consent of the creditors of the corporate debtor or any of them to an agreement with reference to the affairs of the corporate debtor, during the corporate insolvency resolution process, or the liquidation process;</p> <p>(b) prior to the insolvency commencement date, has made any false representation, or committed any fraud, for that purpose,</p> <p>he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.</p>	<p>false representations to creditors.</p>
<p>74.</p>	<p>(1) Where the corporate debtor or any of its officers violate the provisions of section 14, any such officer who knowingly or wilfully, committed, authorised or permitted such contravention is punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.</p> <p>(2) Where any creditor violates the provisions of section 14 then any person who knowingly and wilfully authorised or permitted such contravention of section 14 by a creditor shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.</p>	<p>Punishment for contravention of moratorium.</p>
<p>75.</p>	<p>Where any person furnishes information in the application made under section 7, which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material, such person shall be punishable with a fine not less than one lakh rupees but which may extend to three lakh rupees:</p>	<p>Penalties for false information furnished in application.</p>

	<p><i>Provided</i> that no person shall be liable under this section if it is established that such person had exercised due diligence in trying to collect the relevant information.</p> <p><i>Explanation.</i> – For the purpose of this section, a person shall be deemed to have exercised due diligence if such diligence was reasonably expected of a person carrying out the same functions as were carried out by that person in relation to the debtor or the corporate debtor (as the case may be).</p>	
	<p>76. (i) Where an operational creditor has wilfully or knowingly concealed in an application under section 9 the fact that the corporate debtor had notified him of a dispute in respect of the unpaid operational debt or the full and final repayment of the unpaid operational debt;</p> <p>(ii) Where any person who knowingly and wilfully authorised or permitted such concealment under clause (i);</p> <p>such operational creditor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.</p>	<p>Penalty for non-disclosure of dispute or repayment of debt by operational creditor.</p>
	<p>77. (i) Where a corporate debtor provides information in the application under section 10 which is false in material particulars, knowing it to be false and omits any material fact, knowing it to be material; or</p> <p>(i) Where any person who knowingly and wilfully authorised or permitted the furnishing of such information under sub-clause (i),</p> <p>every officer or the corporate person or the person referred to in sub-clause (ii), as the case may be, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.</p> <p><i>Explanation.</i> – For the purpose of this section, an</p>	<p>Penalty for providing false information in application made by corporate debtor.</p>

	<p>application filed by the corporate debtor shall be deemed to be false in material particulars if, in case the facts mentioned or omitted in the application, if true or not omitted from the application as the case may be, would have been sufficient to determine the existence of a default under this Act.</p>	
	<p>PART III</p> <p>INSOLVENCY RESOLUTION AND BANKRUPTCY FOR INDIVIDUALS AND PARTNERSHIP FIRMS</p>	
	<p>CHAPTER I</p> <p>PRELIMINARY</p>	
	<p>78. (1) This Part shall apply to the whole of India except the State of Jammu and Kashmir.</p> <p>(2) The Adjudicating Authority for the purposes of this Part shall be the Debt Recovery Tribunal constituted under section 1A of the Recovery of Debts and Bankruptcy Act, 1993.</p>	<p>Application.</p>
	<p>79. In this Part, unless the context otherwise requires, -</p>	<p>Definitions.</p>
	<p>(1) “associate” of the debtor means –</p> <p>(a) a person who belongs to the immediate family of the debtor;</p> <p>(b) a person who is a relative of the debtor or a relative of the spouse of the debtor;</p> <p>(c) a person who is in partnership with the debtor;</p> <p>(d) a person who is a spouse or a relative of any person with whom the debtor is in partnership;</p> <p>(e) a person who employs or is employed by the debtor and for this purpose, any director or other officer of a company shall be treated as employed by that company;</p> <p>(f) a person who is a trustee of a trust in which the beneficiaries of the trust include, or the</p>	

	<p>terms of the trust confer a power that may be exercised for the benefit of, the debtor or an associate of the debtor; and</p> <p>(g) a company, where the debtor or the debtor along with his associates, own more than fifty per cent of the share capital of the company or control the appointment of the board of directors of the company.</p> <p><i>Explanation.</i> – For the purposes of this clause, “relative” with reference to any person, means anyone who is related to another, if -</p> <p>(i) they are members of a Hindu Undivided Family;</p> <p>(ii) they are husband and wife; or</p> <p>(iii) they are any other individual related by affinity or consanguinity within the specified degree as determined under any law for the time being in force, or individuals in a step or adoptive relationship within such specified degree;</p>	
	<p>(2) “bankrupt” means –</p> <p>(a) a debtor who has been adjudged as bankrupt by a bankruptcy order under section 126; or</p> <p>(b) where a bankruptcy order under section 126 has been made against a firm, each of the partners of the firm as on the date of the order;</p>	
	<p>(3) “bankruptcy” means the state of being bankrupt;</p>	
	<p>(4) “bankruptcy debts” in relation to a bankrupt means –</p> <p>(a) any debt owed by him as on the bankruptcy commencement date;</p> <p>(b) any debt for which he may become liable after bankruptcy commencement date but</p>	

	<p>before his discharge by reason of any transaction entered into before the bankruptcy commencement date; and</p> <p>(c) any interest provable under section 171;</p>	
	<p>(5) “bankruptcy commencement date” means the date on which a bankruptcy order is passed by the Adjudicating Authority under section 126;</p>	
	<p>(6) “bankruptcy order” means an order passed by an Adjudicating Authority accepting an application for bankruptcy under section 126;</p>	
	<p>(7) “bankruptcy process” means a process against a debtor under Chapters IV and V of this part;</p>	
	<p>(8) “bankruptcy trustee” means the resolution professional appointed as a trustee for the estate of the bankrupt under section 125;</p>	
	<p>(9) “chapter” means a chapter under this Part;</p>	
	<p>(10) “committee of creditors” means a committee constituted under section 134;</p>	
	<p>(11) “debtor” means -</p> <p>(a) a person resident in India, other than corporate debtor; or</p> <p>(b) a person resident in India, other than corporate debtor who, at any time during the preceding three years has carried on business in India:</p> <p><i>Provided</i> that for the purposes of sub-clause (b), a person resident in India, other than corporate debtor, carrying on business includes –</p> <p>(i) the carrying on of business by an unincorporated firm or firm of which such individual is a member; or</p> <p>(ii) the carrying on of business by an agent or manager for such individual or for such unincorporated firm or firm of which such individual is a member;</p>	

	<p>(12) “discharge order” means an order passed by the Adjudicating Authority discharging the debtor under sections 92, 119 and 138;</p>	
	<p>(13) “excluded assets” for the purposes of this part includes –</p> <ul style="list-style-type: none"> (a) unencumbered tools, books, vehicles and other equipment as are necessary to the debtor or bankrupt for his personal use or for the purpose of his employment, business or vocation, (b) unencumbered, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his immediate family; (c) any unencumbered personal ornaments of the debtor or his immediate family which cannot be parted with, in accordance with religious usage; (d) any unencumbered life insurance policy or pension plan taken in the name of debtor or his immediate family; and (e) an unencumbered single dwelling unit owned by the debtor of such value as may be prescribed; 	
	<p>(14) “excluded debt” means –</p> <ul style="list-style-type: none"> (a) liability to pay fine imposed by a court or tribunal; (b) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation; (c) liability to pay maintenance to any person under any law for the time being in force; (d) liability in relation to a student loan; and (e) any other liability as may be prescribed; 	
	<p>(15) “firm” means an unincorporated body of individuals carrying on business in partnership</p>	

	under the Partnership Act, 1932 (9 of 1932);	
	(16) “immediate family” of the debtor means his spouse, dependent children and dependent parents;	
	(17) “partnership debt” means a debt for which all the partners in a firm are jointly liable;	
	(18) “proof of debt” for this part means the proof of debt submitted by the creditor under section 171;	
	(19) “qualifying debt” means amount payable, which includes interest or any other sum payable in respect of the amounts owed under any contract, by the debtor for a liquidated sum either immediately or at certain future time and does not include – <ul style="list-style-type: none"> (a) an excluded debt; (b) a debt to the extent it is secured; and (c) any debt which has been incurred three month prior to the date of the application for fresh start process; 	
	(20) “repayment plan” means a plan prepared by the debtor in consultation with the resolution professional under section 105 containing a proposal to the committee of creditors for a restructuring of his debts or affairs;	
	(21) “resolution professional” means an insolvency resolution professional appointed as a resolution professional for conducting the fresh start process or insolvency resolution process;	
	(22) “spouse” for the purposes of sub-section (16) includes a former spouse;	
	(23) “undischarged bankrupt” means a bankrupt who has not received a discharge order under section 138;	
	CHAPTER II FRESH START PROCESS	

	80. (1) A debtor, who is unable to pay his debts and satisfies the conditions of this section, shall be entitled to a fresh start by obtaining a discharge from his qualifying debts under this Chapter.	Eligibility for making an application.
	(2) A debtor may apply, either personally or through a resolution professional, for a fresh start under this Chapter in respect of his qualifying debts to the Adjudicating Authority if -	
	(a) the gross annual income of the debtor does not exceed rupees 60,000/-;	
	(b) the aggregate value of the assets of the debtor does not exceed rupees 20,000/-;	
	(c) the aggregate value of the qualifying debts does not exceed rupees 35,000/-;	
	(d) he is not an undischarged bankrupt;	
	(e) he does not own a dwelling unit, irrespective of whether it is encumbered or not;	
	(f) a fresh start process, insolvency resolution process or bankruptcy process is not subsisting against him; and	
	(g) no previous fresh start order under this Chapter has been made in relation to him in the twelve months prior to the date of the application under this section.	
	81. (1) When an application is filed under section 80 by a debtor- (a) a moratorium shall commence on the date of the said application in relation to all the debts and shall cease to have effect on the date of admission of such application; and (b) during the moratorium period (i) any pending legal action or legal	Application for fresh start order.

	<p>proceeding in respect of any of his debts shall be deemed to have been stayed; and</p> <p>(ii) his creditors shall not be entitled to initiate any legal action or legal proceedings in respect of any debt.</p>	
	<p>(2) The application under section 80 shall be in such form and manner and accompanied by such fee, as may be prescribed and shall include, –</p> <p>(a) a list of all debts owed by the debtor as on the date of the said application along with details relating to the amount of each debt, interest payable thereon and the names of the creditors to whom each debt is owed;</p> <p>(b) the interest payable on the debts and the rate thereof stipulated in the contract;</p> <p>(c) a list of security held in respect of any of the debts,</p> <p>(d) the financial information of the debtor and his immediate family for up to two years prior to the date of the application;</p> <p>(e) the particulars of the debtor's personal details, as may be prescribed;</p> <p>(f) the reasons for making the application;</p> <p>(g) the particulars of any legal process which, to the debtor's knowledge has been commenced against him;</p> <p>(h) the confirmation that no previous fresh start order under this Chapter has been made in respect of the qualifying debts of the debtor in the twelve months prior to the date of the application;</p> <p>and such application shall be supported by an affidavit.</p>	
82.	<p>(1) Where an application under section 80 is filed by the debtor through a resolution professional, the Adjudicating Authority shall make a request to the Board within two days of the date of the</p>	<p>Appointment of Resolution Professional.</p>

	<p>application and shall seek confirmation that –</p> <ul style="list-style-type: none"> (a) there are no disciplinary proceedings against the proposed resolution professional; and (b) the proposed resolution professional has relevant expertise or is suitable to act as a resolution professional for the fresh start process. 	
	<p>(2) The Board shall communicate to the Adjudicating Authority in writing either –</p> <ul style="list-style-type: none"> (a) confirming the appointment of the proposed resolution professional; or (b) rejecting the appointment of the proposed resolution professional and nominating a resolution professional suitable for the fresh start process. 	
	<p>(3) Where an application under section 80 is filed personally by the debtor, the Adjudicating Authority shall make a request to the Board within two days of the date of the receipt of an application to nominate a resolution professional for the fresh start process.</p>	
	<p>(4) The Board shall nominate a resolution professional within two days of receiving the request sent by the Adjudicating Authority under sub-section (3).</p>	
	<p>(5) The Adjudicating Authority shall appoint the resolution professional recommended or nominated or by the Board under clause (a) of sub-section (2) or sub-section (4), as the case may be, by an order.</p>	
	<p>(6) A resolution professional appointed by the Adjudicating Authority on a nomination by the Board shall be provided a copy of the application for fresh start.</p>	
	<p>(7) The resolution professional appointed by the Adjudicating Authority shall furnish a performance</p>	

	security in accordance with section 206.	
83.	(1) The resolution professional shall examine the application made under section 80 within seven days of his appointment, and submit a report to the Adjudicating Authority, either recommending acceptance or rejection of the application.	Examination of application by resolution professional.
	(2) The report referred to in sub-section (1) shall contain the details of the amounts mentioned in the application which in the opinion of the resolution professional are— (a) qualifying debts; and (b) eligible for discharge under section 92.	
	(3) The resolution professional may call for such further information or explanation in connection with the application as may be required from the debtor or any other person who, in the opinion of the resolution professional, is likely to possess such information.	
	(4) The debtor or any other person, as the case may be, shall furnish such information or explanation within two days of receipt of the request under sub-section (3).	
	(5) The resolution professional shall presume that the debtor is unable to pay his debts at the date of the application if - (a) in his opinion the information supplied in the application indicates that the debtor is unable to pay his debts and he has no reason to believe that the information supplied is incorrect or incomplete; and (b) he has reason to believe that there is no change in the financial circumstances of the debtor since the date of the application enabling the debtor to pay his debts.	
	(6) The resolution professional shall reject the	

	<p>application, if in his opinion -</p> <p>(a) the debtor does not satisfy the conditions specified under section 80; or</p> <p>(b) none of the debts disclosed in the application by the debtor may be categorised as a qualifying debt; or</p> <p>(c) the debtor has deliberately made a false representation or omission in the application or with respect to the documents or information submitted.</p>	
	<p>(7) Where the circumstances for rejection as specified in sub-section (6) do not exist, the resolution professional may recommend acceptance or rejection of the application.</p>	
	<p>(8) The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (1).</p>	
	<p>(9) The resolution professional shall give a copy of the report under sub-section (1) to the debtor.</p>	
	<p>84. (1) The Adjudicating Authority shall pass an order either admitting or rejecting the application on the basis of the report submitted by the resolution professional under section 83.</p>	<p>Admission or rejection of application by Adjudicating Authority.</p>
	<p>(2) The Adjudicating Authority shall within five days from the date of submission of the report by the resolution professional, pass an order under sub-section (1).</p>	
	<p>(3) If in the opinion of the Adjudicating Authority, the resolution professional has not complied with the requirements of section 83, the Adjudicating Authority may reject the report of the resolution professional submitted under that section and pass an order as it deems fit under sub-section (1).</p>	

	(4) The order passed under sub-section (1) accepting the application shall state the amounts which have been accepted as qualifying debts by the resolution professional and other amounts eligible for discharge under section 92 for the purposes of the fresh start order.	
	(5) A copy of the order passed by the Adjudicating Authority under sub-section (1) along with a copy of the application shall be provided to the creditors mentioned in the application within two days of the passing of the order.	
85.	(1) On the date of admission of the application, the moratorium period shall commence in respect of all the debts.	Effect of admission of application.
	(2) During the moratorium period - (a) any pending legal action or legal proceeding in respect of any debt shall be deemed to have been stayed; and (b) subject to the provisions of section 86, the creditors shall not initiate any legal action or legal proceedings in respect of any debt.	
	(3) During the moratorium period, the debtor shall – (a) not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company; (b) not dispose of or alienate any of his assets; (c) inform his business partners that he is undergoing a fresh start process; (d) prior to entering into any financial or commercial transaction of a value notified by the Central Government, either individually or jointly, be required to inform all the parties involved that he is undergoing a fresh start process; (e) disclose the name under which he enters	

	<p>into business transactions, if it is different from the name in the application admitted under section 84;</p> <p>(f) travel overseas only with the permission of the Adjudicating Authority.</p>	
	<p>(4) The moratorium ceases to have effect at the end of the period of six months beginning with the date of admission unless the order admitting the application is revoked under section 91.</p>	
	<p>86. (1) Any creditor mentioned in the order of the Adjudicating Authority under section 84 to whom a qualifying debt is owed may, within a period of ten days from the date of receipt of the order under section 84, object only on the following grounds , namely-</p> <p>(a) inclusion of a debt as a qualifying debt; or</p> <p>(b) incorrectness of the details of the qualifying debt specified in the order under Section 84.</p>	<p>Objection and investigation.</p>
	<p>(2) A creditor may file an objection under sub-section (1) by way of an application to the resolution professional.</p>	
	<p>(3) The application under sub-section (2) shall be supported by such information and documents as may be prescribed.</p>	
	<p>(4) The resolution professional shall consider every objection made under this section.</p>	
	<p>(5) The resolution professional shall investigate the objections under sub-section (2) and either accept or reject the objections, within ten days of the date of the application.</p>	
	<p>(6) The resolution professional may <i>suo motu</i> carry out investigation on any matter that appears to him to be relevant to the making of a final list of qualifying debts for the purposes of section 92.</p>	

	<p>(7) On the basis of the investigations under sub-section (5) or sub-section (6), the resolution professional may -</p> <ul style="list-style-type: none"> (a) prepare an amended list of qualifying debts for the purpose of the discharge order; (b) make an application to the Adjudicating Authority for directions under section 90; or (c) take any other steps in relation to the debtor. 	
	<p>(8) The resolution professional may carry out the investigation under this section in such manner as he thinks fit.</p>	
	<p>87. (1) The debtor or the creditor who is aggrieved by the decision of the resolution professional under section 86, may within ten days of such decision, make an application to the Adjudicating Authority challenging the decision on any of the following grounds, namely :-</p> <ul style="list-style-type: none"> (a) that the resolution professional has not given an opportunity to the debtor or the creditor to make a representation; or (b) that the resolution professional colluded with the other party in arriving at the decision; or (c) that the resolution professional has not complied with the requirements of section 86. 	<p>Challenge to decision of resolution professional.</p>
	<p>(2) The Adjudicating Authority shall decide the application referred to in sub-section (1) within ten days of such application, and make an order as it deems fit.</p>	
	<p>(3) Where the application under sub-section (1) has been allowed by the Adjudicating Authority, it shall forward its order to the Board and the Board may take action against the resolution professional</p>	

	under section 219.	
	88. (1) The debtor shall -	General duties of debtor.
	(a) give to the resolution professional such information as to his affairs, attend meetings and comply with the requests of the resolution professional in relation to the fresh start process.	
	(b) as soon as reasonably possible, inform the resolution professional on becoming aware of - (i) any material error or omission in relation to the information or document supplied to the resolution professional; or (ii) any change in financial circumstances after the date of application, where such change has an impact on the fresh start process.	
	89. (1) The debtor or the creditor may apply to the Adjudicating Authority for the replacement of the resolution professional on any of the following grounds, namely: - (a) that the resolution professional is acting or has acted so as to unfairly harm the interests of the debtor or the creditor, as the case may be, by- (i) not giving the debtor or the creditor an opportunity to make a representation, wherever required, under this Chapter; (ii) not collecting the adequate information required for the consideration of the application under this Chapter;	Replacement of resolution professional.

	<p>(iii) conducting the fresh start process negligently or fraudulently; or</p> <p>(iv) colluding with the other party.</p>	
	<p>(b) the resolution professional is not performing his functions as expeditiously or as efficiently as is reasonably practicable or has failed to exercise a reasonable standard of care expected of such professionals in the performance of his powers and functions.</p>	
	<p>(2) The Adjudicating Authority shall examine the application within two days of the receipt of the application under sub-section (1).</p>	
	<p>(3) Where the Adjudicating Authority is satisfied that there exist grounds for replacement of resolution professional, it shall make a reference to the Board for replacement of the resolution professional.</p>	
	<p>(4) The Adjudicating Authority shall appoint another resolution professional for the purposes of the fresh start process on the basis of the recommendation by the Board.</p>	
	<p>(5) The Adjudicating Authority may give directions to the earlier resolution professional -</p> <p>(a) to share all information with the new resolution professional in respect of the fresh start process; and</p> <p>(b) to co-operate with the new resolution professional in such matters as may be required.</p>	
	<p>(6) The Board shall take action against the resolution professional against whom the application referred to in sub-section (1) has been filed and who has been replaced with a new resolution professional, under section 219.</p>	
90.	<p>(1) The resolution professional may apply to the</p>	<p>Directions for</p>

	<p>Adjudicating Authority for directions for any of the following, namely:-</p> <p>(a) compliance of any restrictions referred to in sub-section 3 of section 85, in case of non-compliance by the debtor;</p> <p>(b) compliance of the duties of the debtor referred to in section 88, in case on non-compliance by the debtor; or</p> <p>(c) quashing any decision of the earlier resolution professional.</p>	<p>compliances of restrictions etc.</p>
	<p>(2) The resolution professional may apply to the Adjudicating Authority for directions in relation to any other matter under this Chapter.</p>	
	<p>91. (1) The resolution professional may submit an application to the Adjudicating Authority seeking revocation of its order made under section 84 in any of the following circumstances, namely :-</p> <p>(a) if due to any change in the financial circumstances of the debtor, the debtor is ineligible for afresh start process; or</p> <p>(b) non-compliance by the debtor of the restrictions imposed under sub-section 3 of section 85; or</p> <p>(c) if the debtor has acted in a <i>mala fide</i> manner and has wilfully failed to comply with the requirements under this Chapter.</p>	<p>Revocation of order admitting application.</p>
	<p>(2) The Adjudicating Authority shall, within five days of the receipt of the application under sub-section (1), make an order for reasons to be recorded in writing, accepting or rejecting the application.</p>	
	<p>(3) On passing of the order accepting the application referred to in sub-section (1), the moratorium and the fresh start process shall be deemed to have been terminated.</p>	
	<p>(4) A copy of the order passed by the Adjudicating</p>	

	<p>Authority under this section shall be provided to –</p> <ul style="list-style-type: none"> (a) the Board for the purpose of recording an entry in the register referred to in section 196; and (b) the insolvency professional agency, for the purpose of releasing the performance security furnished by the resolution professional under section 206. 	
	<p>92. (1) The resolution professional shall prepare a final list of qualifying debts and submit that at least five days prior to the end of the moratorium period to the Adjudicating Authority.</p>	Discharge order.
	<p>(2) The Adjudicating Authority shall pass a discharge order at the end of the moratorium period for discharge of the debtor from the qualifying debts mentioned in the list under sub-section (1).</p>	
	<p>(3) In addition to the qualifying debts, the discharge order passed under sub-section (2) shall discharge the debtor from the following liabilities, namely :-</p> <ul style="list-style-type: none"> (a) penalties in respect of the qualifying debts from the date of application till the date of the discharge order; (b) interest (default and penal) in respect of the qualifying debts from the date of application till the date of the discharge order; and (c) any other sums payable under any contract in respect of the qualifying debts from the date of application till the date of the discharge order. 	
	<p>(4) The discharge order shall not discharge the debtor from any debt not included in sub-section (2) and from any liability not included under sub-section (3).</p>	
	<p>(5) The discharge order shall be forwarded to –</p> <ul style="list-style-type: none"> (a) the Board for the purpose of recording an 	

	<p>entry in the register referred to in section 196; and</p> <p>(b) the insolvency professional agency, for the purpose of releasing the performance security furnished by the resolution professional under section 208.</p>	
	<p>(6) A discharge order under sub-section (2) shall not discharge any other person from any liability in respect of the qualifying debts.</p>	
	<p>93. The resolution professional shall perform his functions and duties in compliance with the code of provided under section 208.</p>	<p>Standard of conduct.</p>
	<p style="text-align: center;">CHAPTER III</p> <p style="text-align: center;">INSOLVENCY RESOLUTION PROCESS</p>	
	<p>94. (1) A debtor may apply, either personally or through a resolution professional, to the Adjudicating Authority for initiating the insolvency resolution process, by submitting an application.</p>	<p>Application by debtor to initiate insolvency resolution process.</p>
	<p>(2) Where the debtor is a partner of a firm, such debtor shall not apply under this Chapter to the Adjudicating Authority in respect of the firm unless all or a majority of the partners in the firm file the application jointly.</p>	
	<p>(3) An application under sub-section (1) shall be made only in respect of debts which are not excluded debts.</p>	
	<p>(4) A debtor shall not be entitled to make an application under sub-section (1) if he is -</p> <p>(a) an undischarged bankrupt;</p> <p>(b) undergoing a fresh start process;</p> <p>(c) undergoing an insolvency resolution process ; or</p> <p>(d) undergoing a bankruptcy process.</p>	

	(5) A debtor shall not be eligible to apply under sub-section (1) if an application under this Chapter has been admitted in respect of the debtor in the period of twelve months prior to the application under this section.	
	(6) The application referred to in sub-section (1) shall be in such form and manner and accompanied with such fee as may be prescribed.	
	95. (1) A creditor may apply either by himself, or jointly with other creditors, to the Adjudicating Authority for initiating an insolvency resolution process under this section by submitting an application.	Application by creditor to initiate insolvency resolution process.
	(2) A creditor may apply under sub-section (1) in relation to any partnership debt owed to him for initiating an insolvency resolution process against- (a) any one or more partners of the firm; or (b) the firm.	
	(3) Where an application has been made against one partner in a firm, any other application against a partner in the same firm shall be presented in or transferred to the Adjudicating Authority in which the first mentioned application is pending for adjudication; and such Adjudicating Authority may give such directions for consolidating the proceedings under the applications as it thinks just.	
	(4) An application under sub-section (1) shall be admitted by the Adjudicating Authority only if accompanied with details relating to- (a) the most recent personal information regarding the debtor that the creditor has in his possession; (b) the debts owed by the debtor to the creditor or creditors submitting the application for insolvency resolution process as on the date of application; (c) the failure by the debtor to pay the debt	

	within a period of fourteen days of the service of the notice of demand; and or non-repayment of debt;	
	(5) The creditor shall also provide a copy of the application made under sub-section (1) to the debtor.	
	(6) The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.	
	(7) The details and documents required to be submitted under sub-section (2) shall be such as may be specified.	
96.	<p>(1) When an application is filed under section 94 or section 95 -</p> <p>(a) a moratorium shall commence on the date of the application in relation to all the debts and shall cease to have effect on the date of admission such application; and</p> <p>(b) during the moratorium period -</p> <p>(i) any pending legal action or legal proceeding in respect of any debt shall be deemed to have been stayed; and</p> <p>(ii) the creditors of the debtor shall not be permitted to initiate any legal action or legal proceedings in respect of any debt.</p>	Effect of application.
	(2) Where the application has been made in relation to a firm, the moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the application.	
97.	(1) If the application under section 94 or 95 is filed through a resolution professional, the Adjudicating Authority shall make a request to the Board within two days of the date of the application and shall	Appointment of resolution professional.

	<p>seek confirmation that –</p> <p>(a) there are no disciplinary proceedings against the proposed resolution professional; and</p> <p>(b) the proposed resolution professional has relevant expertise or is suitable to act as a resolution professional for the insolvency resolution process.</p>	
	<p>(2) The Board shall within two days communicate to the Adjudicating Authority in writing either –</p> <p>(a) confirming the appointment of the proposed resolution professional; or</p> <p>(b) rejecting the appointment of the proposed resolution professional and nominating a resolution professional suitable for the insolvency resolution process.</p>	
	<p>(3) Where an application under section 94 or 95 is filed personally by the debtor or the creditor, the Adjudicating Authority shall make a request to the Board within two days of the date of application to nominate a resolution professional for the insolvency resolution process.</p>	
	<p>(4) The Board shall nominate a resolution professional within two days of receiving the request sent by the Adjudicating Authority under sub-section (3).</p>	
	<p>(5) The Adjudicating Authority shall appoint the resolution professional recommended or nominated by the Board under clause (a) of sub-section (2) or sub-section (4), as the case may be, by an order.</p>	
	<p>(6) A resolution professional appointed by the Adjudicating Authority on a nomination by the Board shall be provided a copy of the application for insolvency resolution process.</p>	
	<p>(7) The resolution professional appointed by the Adjudicating Authority shall furnish a performance</p>	

	security in accordance with section 208.	
	<p>98. (1) The debtor or the creditor may apply to the Adjudicating Authority for the replacement of the resolution professional on any of the following grounds, namely:–</p> <p>(a) that the resolution professional is acting or has acted unfairly so as to harm the interests of the debtor or the creditor by conducting the insolvency resolution process negligently or fraudulently or by failing -</p> <p>(i) to submit a report under section 99 or section 106;</p> <p>(ii) to assist the debtor in preparing a repayment plan under section 105;</p> <p>(iii) to provide notice of the meetings of the creditors to eligible creditors under section 107;</p> <p>(iv) to supervise the implementation of the repayment plan as provided in section 116.</p>	Replacement of resolution professional.
	<p>(b) that the resolution professional is not performing his functions as expeditiously or as efficiently as is reasonably practicable or has failed to exercise a reasonable standard of care expected of such professionals in the performance of his powers and functions.</p>	
	<p>(2) In addition to the grounds mentioned in sub-section (1) the creditors may apply to the Adjudicating Authority for replacement of the resolution professional where in the meeting of the creditors it was decided under sub-section 6 of section 108 to replace the resolution professional and to seek the appointment of a new resolution professional for the implementation of the repayment plan.</p>	

	<p>(3) The Adjudicating Authority shall, within two days of the receipt of the application under sub-section (1) examine the application.</p>	
	<p>(4) Where the Adjudicating Authority accepts the application referred to in sub-section (2), it shall request the Board to confirm whether –</p> <p>(a) there are any disciplinary proceedings against the proposed resolution professional; and</p> <p>(b) the proposed resolution professional has the required expertise and is suitable for the insolvency resolution process.</p>	
	<p>(5) The Board shall send a communication within two days of receipt of the request under sub-section (4) either-</p> <p>(a) confirming appointment of the nominated resolution professional; or</p> <p>(b) rejecting appointment of the nominated resolution professional and recommend a new resolution professional.</p>	
	<p>(6) On the basis of the communication of the Board the Adjudicating Authority shall pass an order appointing a new resolution professional.</p>	
	<p>(7) The Adjudicating Authority may give directions to the earlier resolution professional -</p> <p>(a) to share all information with the new resolution professional in respect of the insolvency resolution process; and</p> <p>(b) to co-operate with the new resolution professional in such matters as may be required.</p>	
	<p>(8) The Board shall take an action against the resolution professional against whom the application referred to in sub-section (1) or sub-section (2) has been filed and who has been</p>	

	replaced with a new resolution professional, under section 219.	
99.	(1) The resolution professional shall examine the application referred to in section 94 or 95, as the case may be, within seven days of his appointment, and submit a report to the Adjudicating Authority either approving or rejecting the application.	Submission of report by resolution professional.
	(2) Where the application has been filed under section 95, the resolution professional may require the debtor to prove repayment of the debt claimed as unpaid by the creditor by furnishing - (a) evidence of electronic transfer of the unpaid amount from the bank account of the debtor; (b) evidence of encashment of a cheque issued by the debtor; or (c) a signed acknowledgment by the creditor accepting receipt of dues.	
	(3) Where the debt or the debts for which an application has been filed by a creditor is registered with the information utility, the debtor shall not be entitled to contest the validity of the debt.	
	(4) For the purposes of examining an application, the resolution professional may call for such further information or explanation in connection with the application as may be required from the debtor or the creditor or any other person who, in the opinion of the resolution professional, is likely to possess such information.	
	(5) The person from whom information or explanation is sought under sub-section (4) shall furnish such information or explanation within two days of receipt of the request.	
	(6) The resolution professional shall reject the application in any of the following circumstances - (a) in his opinion the application does not sat-	

	<p>isfy the requirements set out in section 94 or 95;</p> <p>(b) the applicant has not provided information or fails to give explanation sought by the resolution professional under sub-section (4);</p> <p>(c) the resolution professional is not satisfied with the information submitted pursuant to a request under sub-section (4).</p>	
	<p>(7) Where the circumstances for rejection of application as mentioned in sub-section (6) do not exist, the resolution professional may exercise his best judgment while recommending acceptance or rejection of the application.</p>	
	<p>(8) Where the resolution professional finds that the debtor is eligible for a fresh start under Chapter II, the resolution professional shall issue a report recommending that the application by the debtor under section 94 be treated as an application under section 81 by the Adjudicating Authority.</p>	
	<p>(9) The resolution professional shall record the reasons for recommending the acceptance or rejection of the application in the report under sub-section (1).</p>	
	<p>(10) The resolution professional shall give a copy of the report under sub-section (1) to the debtor or the creditor, as the case may be.</p>	
	<p>100. (1) The Adjudicating Authority shall, within five days from the date of submission of the report under section 99 pass an order either admitting or rejecting the application referred to in section 94 or 95, as the case may be, on the basis of the said report.</p>	<p>Admission or refusal of application by Adjudicating Authority.</p>
	<p>(2) Where the Adjudicating Authority admits an application under sub-section (1), it may, on the request of the resolution professional, issue instructions for the purpose of conducting ne-</p>	

	<p>gotiations between the debtor and creditors and for arriving at a repayment plan.</p>	
	<p>(3) The Adjudicating Authority shall provide a copy of the order passed under sub-section (1) along with the report of the resolution professional and the application referred to in section 94 or 95, as the case may be, to the creditors within two days from the date of the said order.</p>	
	<p>(4) If the application referred to in section 94 or 95, as the case may be, is rejected by the Adjudicating Authority on the ground that the report of the resolution professional states that the application should be rejected due to non-disclosure of information called for by the resolution professional under sub-section 6 of section 99, or that the application was made with the intention to defraud his creditors or the resolution professional, the order shall record that the creditor is entitled to file for a bankruptcy order under Chapter IV.</p>	
	<p>101. (1) When the application is admitted under section 100, a moratorium shall commence in relation to all the debts and shall cease to have effect at the end of the period of six months beginning with the date of admission of the application or on the date the Adjudicating Authority passes an order on the repayment plan under section 114, whichever is earlier.</p>	<p>Effect of admission of application.</p>
	<p>(2) During the moratorium period-</p> <p>(a) any pending legal action or legal proceeding in respect of any debt shall be deemed to have been stayed; and</p> <p>(c) the creditors shall not be entitled to initiate any legal action or legal proceedings in respect of any debt.</p>	
	<p>(3) Where an order admitting the application under section 96 has been made in relation to a firm, the moratorium under sub-section (1) shall operate</p>	

	against all the partners of the firm.	
102.	(1) The Adjudicating Authority shall issue a public notice inviting claims from all creditors within two days of the passing of the order under section 96.	Public notice and claims from creditors.
	(2) The notice under sub-section (1) shall include— (a) details of the order admitting the application; (b) particulars of the resolution professional with whom the claims are to be registered; and (c) the last date for filing of claims.	
	(3) The notice shall be - (a) published in at least one English and one vernacular newspaper which is in circulation in the state where the debtor resides; (b) affixed in the premises of the Adjudicating Authority; and (c) placed on the website of the Adjudicating Authority.	
	(4) Any claim against the debtor shall be filed with the Adjudicating Authority within twenty one days of the publication of the notice.	
103.	(1) The creditors shall register claims with the resolution professional by sending details of the claims by way of email or through registered post.	Registering of claims by creditors.
	(2) In addition to the claims referred to in sub-section (1), the creditor shall provide to the resolution professional, personal information and such particulars as may be prescribed.	
104.	(1) The resolution professional shall prepare a list of creditors on the basis of - (a) the information disclosed in the application filed by the debtor under section 94 or 95,	Preparation of list of creditors.

	<p>as the case may be;</p> <p>(b) claims received by the resolution professional under section 102.</p>	
	<p>(2) The resolution professional shall prepare the list mentioned in sub-section (1) within thirty days from the date of the notice.</p>	
	<p>105. (1) The debtor shall prepare, in consultation with the resolution professional, a repayment plan containing a proposal to the creditors for restructuring of his debts or affairs.</p>	Repayment plan.
	<p>(2) The resolution professional shall submit the repayment plan to the Adjudicating Authority within a period of twenty one days from the last date of filing of claims under section 102.</p>	
	<p>(3) The repayment plan may authorise or require the resolution professional to -</p> <p>(a) carry on the debtor's business or trade on his behalf or in his name; or</p> <p>(b) realise the assets of the debtor; or</p> <p>(c) administer or dispose of any funds of the debtor.</p>	
	<p>(4) The repayment plan shall -</p> <p>(a) provide an explanation as to why, in the opinion of the debtor and the resolution professional, a repayment plan is desirable; and</p> <p>(b) give reasons why the creditors may be expected to agree to the repayment plan;</p> <p>(c) make provision for payment of fee to the resolution professional;</p> <p>(d) provide for such other matters as may be specified.</p>	

	<p>106. (1) The repayment plan prepared under section 105 shall be submitted to the Adjudicating Authority along with a report of the resolution professional on the repayment plan under sub-section (2).</p>	<p>Report of resolution professional on repayment plan.</p>
	<p>(2) The report prepared by the resolution professional shall state whether -</p> <ul style="list-style-type: none"> (a) the repayment plan is in compliance with the provisions of any law for the time being in force; (b) the repayment plan has a reasonable prospect of being approved and implemented; and (c) a meeting of the creditors is required to be summoned to consider the repayment plan: <p><i>Provided</i> that where the resolution professional recommends that a meeting of the creditors is not required to be summoned, reasons for the same shall be provided.</p>	
	<p>(3) The report referred to in sub-section (2) shall also specify the date on which, and the time and place at which, the meeting should be held if he is of the opinion that a meeting of the creditors should be summoned.</p>	
	<p>(4) For the purposes of sub-section (3) -</p> <ul style="list-style-type: none"> (a) the date on which the meeting is to be held shall be not less than fourteen days and not more than twenty eight days from the date of submission of report under sub-section(1); (b) The resolution professional shall consider the convenience of creditors in fixing the date and venue of the meeting of the creditors. 	
	<p>107. (1) The resolution professional shall issue a notice calling the meeting of the creditors at least fourteen days before the date fixed for such meeting.</p>	<p>Summoning of meeting of creditors.</p>

	(2) The resolution professional shall send the notice of the meeting to the list of creditors prepared under section 104.	
	(3) The notice sent under sub-section (1) shall state the address of the Adjudicating Authority to which the repayment plan and report of the resolution professional on the repayment plan has been submitted and shall be accompanied by - (a) a copy of the repayment plan; (b) a copy of the statement of affairs of the debtor; (c) a copy of the said report of the resolution professional; and (d) forms for proxy voting	
	(4) The proxy voting, including electronic proxy voting shall take place in such manner and form as may be specified.	
	108. (1) The meeting of the creditors shall be conducted in accordance with the provisions of this section.	Conduct of meeting of creditors.
	(2) If for any reason the resolution professional is unable to attend the meeting of the creditors, he may nominate another person to act on his behalf.	
	(3) A person nominated under sub-section (3) shall be a person qualified to act as a resolution professional under this Act.	
	(4) In the meeting of the creditors, the creditors may decide to approve, modify or reject the repayment plan.	
	(5) The resolution professional shall ensure that if modifications are suggested by the creditors, consent of the debtor shall be obtained for each modification.	
	(6) The creditors may decide whether the proposed resolution professional should continue for the	

	implementation of the repayment plan, or to replace him or appoint additional resolution professionals.	
	(7) The resolution professional may for a sufficient cause adjourn the meeting of the creditors for a period of not more than five days at a time.	
	109. (1) Every creditor is entitled to vote at every meeting of the creditors in respect of the repayment plan.	Voting rights in meeting of creditors.
	(2) For the purposes of this section, the right to vote of a creditor shall depend on the value of the debt as on the date of the order admitting the application under section 100.	
	(3) A creditor shall not be entitled to vote in respect of a debt for an unliquidated amount, or any debt the value of which is not ascertained, except where the resolution professional agrees to assign to the debt an estimated value for the purpose of entitlement to vote.	
	(4) A creditor shall not be entitled to vote in a meeting of the creditors if he — (a) is not a creditor mentioned in the list of creditors under section 104; or (b) belongs to the immediate family of the debtor; or (c) is an associate of the debtor.	
	110. (1) Secured creditors shall be entitled to participate and vote in the meetings of the creditors. (2) A secured creditor participating in the meetings of the creditors and voting in relation to the repayment plan shall give up his right to enforce the security during the period of the repayment plan in accordance with the terms of the repayment plan. (3) Where a secured creditor does not intend to give up	Rights of secured creditors in relation to repayment plan.

	<p>his right to enforce security, he shall submit an affidavit to the resolution professional at the meeting of the creditors mentioning -</p> <ul style="list-style-type: none"> (a) the right to vote exercised by the secured creditor is only in respect of the unsecured part of the debt; and (b) an estimated value of the unsecured part of the debt. <p>(4) In case a secured creditor participates in the voting on the repayment plan by submitting an affidavit under sub-section (3), the secured and unsecured parts of the debt shall be treated as separate debts.</p> <p>(5) The concurrence of the secured creditor shall be obtained if he does not intend to participate in the repayment plan and any provision of the repayment plan affects his right to enforce security.</p> <p><i>Explanation.</i> – For the purposes of this section, "period of the repayment plan" means the period from the date of the order passed under section 114 till the date on which the notice is given by the resolution professional under section 117 or report submitted by the resolution professional under section 118, as the case may be.</p>	
	<p>111. The repayment plan or any modification to the repayment plan shall be approved by a majority of more than three-fourth in value of the creditors present in person or by proxy and voting on the resolution in a meeting of the creditors.</p>	<p>Requisite majorities in meeting of creditors.</p>
	<p>112. (1) The resolution professional shall prepare a report of the meeting of the creditors.</p>	<p>Report of meeting of creditors.</p>
	<p>(2) The report under sub-section (1) shall contain -</p> <ul style="list-style-type: none"> (a) the repayment plan approved by the creditors; (b) state whether the repayment plan was approved or rejected and if approved, list the modifications, if any; (c) set out the resolutions which were proposed at the meeting and the decision 	

	<p>on such resolutions;</p> <p>(d) list of the creditors who were present or represented at the meeting, and the voting records of each creditor for all meetings of the creditors; and</p> <p>(e) such further information as the resolution professional thinks appropriate to make known to the Adjudicating Authority.</p>	
	<p>113. (1) The resolution professional shall provide a copy of the report of the meeting of creditors prepared under section 99 to -</p> <p>(a) the debtor;</p> <p>(b) the creditors, including those who were not present at the meeting; and</p> <p>(c) the Adjudicating Authority.</p>	<p>Notice of decisions taken at meeting of creditors.</p>
	<p>114. (1) The Adjudicating Authority shall pass an order on the basis of the report of the meeting of the creditors submitted by the resolution professional under section 112.</p> <p>(2) The order of the Adjudicating Authority approving the repayment plan may also provide for instructions appropriate for implementing the repayment plan.</p> <p>(3) The Adjudicating Authority shall not modify the repayment plan as approved in the meeting of the creditors while passing an order under this subsection (1) :</p> <p><i>Provided</i> that where the Adjudicating Authority is of the opinion that the repayment plan requires modification, it may direct the resolution professional to re-convene a meeting of the creditors for reconsidering the repayment plan.</p>	<p>Order of Adjudicating Authority on repayment plan.</p>
	<p>115. (1) Where the Adjudicating Authority has passed an order under section 114, the repayment plan shall –</p> <p>(a) take effect as if proposed by the debtor in the meeting; and</p> <p>(b) bind creditors mentioned in the repayment</p>	<p>Effect of order of Adjudicating Authority on repayment plan.</p>

	plan and the debtor.	
	(2) Where the order passed by the Adjudicating Authority records the rejection of the repayment plan by the meeting of the creditors, the order shall record that both the debtor and the creditors shall be entitled to file an application for bankruptcy under Chapter IV.	
	(3) A copy of the order passed by the Adjudicating Authority under sub-section (2) shall be provided to - (a) the Board, for the purpose of recording an entry in the register referred to in section 196; and (b) the insolvency professional agency, for the purpose of releasing the performance security furnished by the resolution professional under section 208.	
	116. (1) The resolution professional appointed under section 97 or under section 98 shall supervise the implementation of the repayment plan.	Implementation and supervision of repayment plan.
	(2) The resolution professional may apply to the Adjudicating Authority for directions in relation to any particular matter arising under the repayment plan.	
	(3) The Adjudicating Authority may issue directions to the resolution professional on the basis of an application under sub-section (2).	
	(4) At the meeting of the creditors under section 108, if the creditors decide to replace the resolution professional, or appoint a resolution professional in addition to the existing resolution professional, the Adjudicating Authority shall pass an order accordingly.	
	(5) Prior to passing an order under sub-section (4), the Adjudicating Authority shall check the records of the Board if there are any disciplinary proceedings	

	against the proposed resolution professional.	
	(6) The Adjudicating Authority shall pass an order under sub-section (4) within three days of the order passed under section 114.	
	117. (1) The resolution professional shall within fourteen days of the completion of the repayment plan, send to the persons who are bound by the repayment plan under section 115 and the Adjudicating Authority, the following documents, namely - (a) a notice that the repayment plan has been fully implemented; and (b) a copy of a report by the resolution professional summarising all receipts and payments made in pursuance of the repayment plan and explaining any difference in the actual implementation of it as compared with the repayment plan approved by the meeting of the creditors.	Completion of repayment plan.
	(2) The resolution professional may apply to the Adjudicating Authority to extend the time mentioned in sub-section (1) by a further period of seven days, but not thereafter.	
	118. (1) A repayment plan shall come to an end prematurely if, when it ceases to have effect, it has not been fully implemented in respect of all persons bound by it.	Repayment plan coming to end prematurely.
	(2) Where a repayment plan comes to an end prematurely under this section, the resolution professional shall submit a report to the Adjudicating Authority which shall state -	
	(a) the receipts and payments made in pursuance of the repayment plan; (b) the reasons for premature end of the repayment plan; and (c) the details of the creditors whose claims	

	have not been fully satisfied.	
	<p>(3) The Adjudicating Authority shall pass an order on the basis of the report submitted by the resolution professional stating that -</p> <p>(a) the repayment plan has not been completely implemented; and</p> <p>(b) the debtor or the creditor, whose claims have not been fully satisfied, shall be entitled to apply for a bankruptcy order under Chapter IV.</p>	
	<p>(4) The Adjudicating Authority shall forward to the persons bound by the repayment plan under section 115, a copy of the -</p> <p>(a) report submitted by the resolution professional to the Adjudicating Authority under sub-section (2); and</p> <p>(b) order passed by the Adjudicating Authority under sub-section (4).</p>	
	<p>(5) The Adjudicating Authority shall forward a copy of the order passed under sub-section (4) to –</p> <p>(a) the Board, for the purpose of recording entries in the register referred to in section 196; and</p> <p>(b) the insolvency professional agency for the purpose of deciding whether the performance security furnished by the resolution professional under section 208 shall be released.</p>	
	<p>119. (1) On the basis of the repayment plan, the resolution professional shall apply to the Adjudicating Authority for a discharge order in relation to the debts mentioned in the repayment plan and the Adjudicating Authority may pass an order accordingly.</p>	Discharge order.
	<p>(2) The repayment plan may provide for -</p>	

	<p>(a) early discharge; or</p> <p>(b) discharge on complete implementation of the repayment plan.</p>	
	<p>(3) The discharge order shall be forwarded to –</p> <p>(a) the Board, for the purpose of recording entries in the register referred to in section 196; and</p> <p>(b) the insolvency professional agency for the purpose of deciding whether the performance security furnished by the resolution professional under section 208 shall be released.</p>	
	<p>(4) The discharge order under sub-section (3) shall not discharge any other person from any liability in respect of the debts of the debtor.</p>	
	<p>120. The resolution professional shall perform his functions and duties in compliance with the code of conduct provided under section 208.</p>	<p>Standard of conduct.</p>
	<p>CHAPTER IV</p> <p>BANKRUPTCY ORDER FOR INDIVIDUALS AND PARTNERSHIP FIRMS</p>	
	<p>121. (1) An application for bankruptcy of a debtor may be made, by a creditor individually or jointly with other creditors or by a debtor, to the Adjudicating Authority in the following circumstances, namely;–</p> <p>(a) where an order has been passed by an Adjudicating Authority under sub-section 4 of section 100; or</p> <p>(b) where an order has been passed by an Adjudicating Authority under sub-section 2 of section 115; or</p> <p>(c) where an order has been passed by an Adjudicating Authority under sub-section 3 of section 118.</p>	<p>Application for bankruptcy.</p>

	(2)	An application for bankruptcy shall be filed within a period of six months of the date of the order passed by the Adjudicating Authority under the sections referred to in sub-section (1).	
	(3)	Where the debtor is a firm, the application under sub-section (1) may be filed by any of its partners.	
	122. (1)	The application for bankruptcy by the debtor shall be accompanied by - <ul style="list-style-type: none"> (a) the records of insolvency resolution process undertaken under Chapter III of Part III; (b) the statement of affairs of the debtor in such form and manner as may be prescribed, on the date of the application for bankruptcy; and (c) a copy of the order passed by the Adjudicating Authority under Chapter III of Part III permitting the debtor to apply for bankruptcy. 	Application by debtor.
	(2)	The debtor may propose a resolution professional as the bankruptcy trustee in the application for bankruptcy.	
	(3)	The application referred to in sub-section (1) shall be in such form and manner and accompanied by such fee as may be prescribed.	
	(4)	An application for bankruptcy by the debtor shall not be withdrawn without the leave of the Adjudicating Authority.	
	123. (1)	The application for bankruptcy by the creditor shall be accompanied by- <ul style="list-style-type: none"> (a) the records of insolvency resolution process undertaken under Chapter III; (b) a copy of the order passed by the Adjudicating Authority under Chapter III 	Application by creditor.

	<p>permitting the creditor to apply for bankruptcy;</p> <p>(c) details of the debts owed by the debtor to the creditor as on the date of the application for bankruptcy; and</p> <p>(d) such other information as may be prescribed.</p>	
	<p>(2) An application under sub-section (1) made in respect of a debt which is secured, shall be accompanied with -</p> <p>(a) a statement by the creditor having the right to enforce the security that he shall, in the event of a bankruptcy order being made, give up his security for the benefit of all the creditors of the bankrupt; or</p> <p>(b) a statement by the creditor stating—</p> <p>(i) that the application for bankruptcy is only in respect of the unsecured part of the debt; and</p> <p>(ii) an estimated value of the secured part of the debt.</p>	
	<p>(3) If a secured creditor makes an application for bankruptcy and submits a statement under clause (b) of sub-section (2), the secured and unsecured parts of the debt shall be treated as separate debts.</p>	
	<p>(4) The creditor may propose a resolution professional as the bankruptcy trustee in the application for bankruptcy.</p>	
	<p>(5) An application for bankruptcy under sub-section (1), in case of a deceased debtor, may be filed against his legal representatives.</p>	
	<p>(6) The application for bankruptcy shall be in such form and manner and accompanied by such fee as may be prescribed.</p>	

	(7) An application for bankruptcy by the creditor shall not be withdrawn without the permission of the Adjudicating Authority.	
124.	<p>(1) When an application is filed under sections 122 or 123 –</p> <p>(a) a moratorium shall commence on the date of the making of the application on all actions against the properties of the debtor in respect of his debts and such moratorium shall cease to have effect on the bankruptcy commencement date; and</p> <p>(b) during the moratorium period -</p> <p>(i) any pending legal action or legal proceeding against any property of the debtor in respect of any of his debts shall be deemed to have been stayed;</p> <p>(ii) the creditors of the debtor shall not be entitled to initiate any legal action or legal proceedings against any property of the debtor in respect of any of his debts.</p>	Effect of application.
	(2) Where the application has been made in relation to a firm, the moratorium under sub-section (1) shall operate against all the partners of the firm as on the date of the making of the application.	
125.	<p>(1) If a resolution professional is nominated as the bankruptcy trustee in the application for bankruptcy under section 122 or section 123, the Adjudicating Authority shall make a request to the Board within two days of receiving the application for bankruptcy and seek confirmation that –</p> <p>(a) there are no disciplinary proceedings against the proposed bankruptcy trustee; and</p> <p>(b) the proposed bankruptcy trustee has relevant expertise or is suitable to act as a</p>	Appointment of Resolution Professional as bankruptcy trustee.

	bankruptcy trustee for the bankruptcy process.	
	<p>(2) The Board shall within two days of the receipt of the application communicate in writing either –</p> <p>(a) confirming the appointment of the proposed resolution professional as the bankruptcy trustee for the bankruptcy process ; or</p> <p>(b) rejection of the proposed resolution professional as the bankruptcy trustee and nomination of a bankruptcy trustee suitable for the bankruptcy process.</p>	
	<p>(3) In case a bankruptcy trustee is not proposed by the debtor or creditor under section 122 or 123, the Adjudicating Authority shall make a request to the Board within two days of receiving the application to nominate a bankruptcy trustee for the bankruptcy process.</p>	
	<p>(4) The Board shall nominate a bankruptcy trustee within two days of receiving the request of the Adjudicating Authority under sub-section (3).</p>	
	<p>(5) The bankruptcy trustee nominated under sub-section (4) shall be appointed as the bankruptcy trustee by the Adjudicating Authority in the bankruptcy order under section 126.</p>	
	<p>(6) The bankruptcy trustee shall furnish a performance security in accordance with section 208.</p>	
	<p>126. (1) The Adjudicating Authority shall pass a bankruptcy order within two days of receiving the nomination of the bankruptcy trustee under section 125.</p>	Bankruptcy order
	<p>(2) The Adjudicating Authority shall provide the following documents to bankrupt, creditors and the bankruptcy trustee within two days of the passing of the bankruptcy order, namely :-</p>	

	<p>(a) a copy of the application for bankruptcy; and</p> <p>(b) a copy of the bankruptcy order.</p>	
	<p>127. The bankruptcy order passed by the Adjudicating Authority under section 126 shall continue to have effect till the debtor is discharged under section 138.</p>	<p>Validity of bankruptcy order.</p>
	<p>128. (1) On the passing of the bankruptcy order under section 126, –</p> <p>(a) the estate of the bankrupt shall vest in the bankruptcy trustee as provided in section 154;</p> <p>(b) the estate of the bankrupt shall be divided among his creditors;</p> <p>(c) subject to provisions of sub-section (2), a creditor of the bankrupt indebted in respect of any debt claimed as a bankruptcy debt shall not–</p> <p>(i) maintain any action against the property of the bankrupt in respect of such debt; or</p> <p>(ii) commence any suit or other legal proceedings except with the leave of the Adjudicating Authority and on such terms as the Adjudicating Authority may impose.</p>	<p>Effect of bankruptcy order.</p>
	<p>(2) Subject to the provisions of section 123, the bankruptcy order shall not affect the right of any secured creditor to realize or otherwise deal with his security interest in the same manner as he would have been entitled if the bankruptcy order had not been passed:</p> <p><i>Provided</i> that no secured creditor shall be entitled to any interest in respect of his debt after the bankruptcy commencement date if he does not realise his security within six months from the said date.</p> <p><i>Explanation.</i> – In computing the period of six months</p>	

	<p>under this section, the period during which any legal proceeding in relation to the right of the secured creditor to realise the security is pending at a court or authority shall be excluded and for the purposes of this explanation, the day on which such legal proceeding was instituted and the day on which it ended shall both be counted.</p>	
	<p>(3) Where a bankruptcy order under section 126 has been passed against a firm, the order shall operate as if it were a bankruptcy order made against each of the individuals who, on the date of the order, is a partner in the firm.</p>	
	<p>129. (1) Where a bankruptcy order is passed on the application for bankruptcy by a creditor under section 123, the bankrupt shall submit his statement of affairs to the bankruptcy trustee within five days from the bankruptcy commencement date.</p>	<p>Statement of affairs.</p>
	<p>(2) The statement of affairs shall be submitted in the such form ad manner as may be prescribed.</p>	
	<p>(3) Where the bankrupt is a firm, its partners on the date of the order, shall submit a joint statement of affairs of the firm, and each partner of the firm shall submit a statement of his affairs as well.</p>	
	<p>(4) The bankruptcy trustee may require the bankrupt or any other person, to submit in writing further information explaining or modifying any matter contained in the statement of affairs.</p>	
	<p>130. (1) The Adjudicating Authority shall–</p> <p>(a) send notices within two days of the bankruptcy commencement date, to the creditors mentioned in -</p> <p>(i) the statement of affairs submitted by the bankrupt under section 129; or</p> <p>(ii) the application for bankruptcy submitted by the bankrupt under</p>	<p>Public notice inviting claims from creditors.</p>

	<p>section 122.</p> <p>(b) issue a public notice inviting claims from creditors.</p>	
	<p>(2) The public notice under clause (b) of sub-section (1) shall include the time within which the claims shall be filed and such matters and details as may be prescribed and shall be -</p> <p>(a) published in at least one English and one vernacular newspaper which is in circulation in the state where the bankrupt resides;</p> <p>(b) affixed on the premises of the Adjudicating Authority; and</p> <p>(c) placed on the website of the Adjudicating Authority.</p>	
	<p>(3) The notice sent to the creditors mentioned in the statement of affairs under sub-section (1) shall include such matters and details as may be prescribed.</p>	
	<p>131. (1) The creditors shall register claims with the bankruptcy trustee within seven days of the publication of the public notice, by sending details of the claims to the bankruptcy trustee in such manner as may be prescribed.</p> <p>(2) The creditor, in addition to the details of his claims, shall provide such other information in such manner as may be prescribed.</p>	<p>Registration of claims.</p>
	<p>132. The bankruptcy trustee shall, within fourteen days from the bankruptcy commencement date, prepare a list of creditors of the bankrupt on the basis of -</p> <p>(a) the information disclosed by the bankrupt in the application for bankruptcy filed by the bankrupt under section 118 and the statement of affairs filed under section 125; and</p> <p>(b) claims received by the bankruptcy trustee</p>	<p>Preparation of list of creditors.</p>

	under sub-section (2) of section 130.	
133.	(1) The bankruptcy trustee shall, within sixteen days from the bankruptcy commencement date, issue a notice for calling a meeting of the creditors, to every creditor of the bankrupt as mentioned in the list prepared by the bankruptcy trustee under section 132.	Summoning of meeting of creditors.
	(2) The notices issued under sub-section (1) shall - (a) state the date of the meeting of the creditors, which shall not be later than twenty-one days from the bankruptcy commencement date; (b) be accompanied with forms of proxy voting ; (c) specify the form and manner in which the proxy voting may take place.	
	(3) The proxy voting, including electronic proxy voting shall take place in such manner and form as may be specified.	
134.	(1) The bankruptcy trustee shall be the convener of the meeting of the creditors summoned under section 133.	Conduct of meeting of creditors.
	(2) The bankruptcy trustee shall decide the quorum for the meeting of the creditors, and conduct the meeting only if the quorum is present.	
	(3) The following business shall be conducted in the meeting of the creditors in which regard a resolution may be passed, namely : - (a) the establishment of a committee of creditors; (b) any other business that the bankruptcy trustee thinks fit to be transacted.	
	(4) If the bankruptcy trustee is unable to attend the meeting of the creditors, he may nominate another	

	<p>person to attend the meeting in his place who shall be a person qualified to act as a bankruptcy trustee under this Act.</p>	
	<p>(5) The bankruptcy trustee shall cause the minutes of the meeting of the creditors to be recorded, signed and retained as a part of the records of the bankruptcy process.</p>	
	<p>(6) The bankruptcy trustee shall not adjourn the meeting of the creditors for any purpose for more than three days at a time.</p>	
135.	<p>(1) Every creditor mentioned in the list under section 132 or his proxy shall be entitled to vote in respect of the resolutions in the meeting of the creditors.</p> <p>(2) For the purposes of this section, the right to vote of the creditor shall depend on the value of the debt as on the bankruptcy commencement date.</p> <p>(3) A creditor shall not be entitled to vote in respect of a debt for an unliquidated amount, or any debt the value of which is not ascertainable, except where the bankruptcy trustee agrees to assign a value to such debt for the purposes of entitling the creditor to vote under sub-section (1).</p> <p>(4) The following creditors shall not be entitled to vote under this section, namely :-</p> <p>(a) creditors who are not mentioned in the list of creditors under section 132 and those who have not been given a notice by the bankruptcy trustee;</p> <p>(b) creditors who belong to the immediate family of the bankrupt; and</p> <p>(c) creditors who are associates of the bankrupt.</p>	<p>Voting rights of creditors.</p>
	<p>136. The bankruptcy trustee shall conduct the administration and distribution of the estate of the bankrupt in accordance with the provisions of Chapter V.</p>	<p>Administration and distribution of estate of bankrupt.</p>

	<p>137. (1) The bankruptcy trustee shall summon a meeting of the committee of creditors on completion of the administration and distribution of the estate of the bankrupt in accordance with the provisions of Chapter V.</p> <p>(2) The bankruptcy trustee shall provide the committee of creditors with a report of the administration of the estate of the bankrupt in the meeting of the said committee.</p> <p>(3) The committee of creditors shall approve the report submitted by the bankruptcy trustee under sub-section (2) within seven days of the receipt of the report and determine whether the bankruptcy trustee should be released under section 148.</p> <p>(4) The bankruptcy trustee shall retain sufficient sums from the estate of the bankrupt to meet the expenses of summoning and conducting the meeting required under this section during the administration of the estate.</p>	<p>Completion of administration.</p>
	<p>138. (1) The bankruptcy trustee shall apply to the Adjudicating Authority for a discharge order on –</p> <p>(a) the expiry of one year from the bankruptcy commencement date; or</p> <p>(b) the date of the approval of the committee of creditors of the completion of administration under section 137, where the approval is prior to the period mentioned in clause (a) .</p> <p>(2) The Adjudicating Authority shall pass a discharge order on an application by the bankruptcy trustee under sub-section (1).</p> <p>(3) A copy of the discharge order shall be provided to –</p> <p>(a) the Board, for the purpose of recording an entry in the register referred to in section 196; and</p> <p>(b) the insolvency professional agency, for the</p>	<p>Discharge order.</p>

	<p>purpose of releasing the performance security provided by the bankruptcy trustee under section 208.</p>	
	<p>139. (1) The discharge order under sub-section (2) of section 138, -</p> <ul style="list-style-type: none"> (a) on an application under clause (a) of sub-section (1) of section 138 shall release the bankrupt from all the bankruptcy debts; (b) on an application under clause (b) of sub-section (1) of section 138, shall release the bankrupt from the bankruptcy debts, but the discharge shall not affect - <ul style="list-style-type: none"> (i) the functions of the bankruptcy trustee; or (ii) the operation of the provisions of Chapters IV and V of Part III: <p><i>Provided</i> that a discharge shall not -</p> <ul style="list-style-type: none"> (a) affect the right of the secured creditor to enforce his security for the payment of a debt from which the bankrupt is discharged; (b) release the bankrupt from any debt incurred by means of fraud or breach of trust to which he was a party; (c) release the bankrupt from any debt in respect of which he has obtained forbearance by any fraud or breach of trust to which he was a party; or (d) discharge the bankrupt from any excluded debt. 	<p>Effect of discharge.</p>
	<p>(2) A discharge order shall not release any person who on the bankruptcy commencement date was -</p> <ul style="list-style-type: none"> (a) partner of the bankrupt; (b) co-trustee of the bankrupt; (c) surety of the bankrupt; or 	

	(d) jointly liable with the bankrupt.	
	140. (1) The bankrupt shall, from the bankruptcy commencement date, be subject to the disqualifications mentioned in this section, unless exempted by the Adjudicating Authority.	Disqualification of bankrupt.
	(2) In addition to any disqualification under any other law for the time being in force, a bankrupt shall be disqualified from— (a) being appointed or acting as a trustee or representative in respect of any trust, estate or settlement; (b) being appointed or acting as a Magistrate; (c) being elected to any office or any local authority where the appointment to such office is by election, holding or exercising any office to which no salary is attached; and (e) being elected or sitting or voting as a member of any local authority.	
	(3) Any disqualification to which a bankrupt may be subject under this section shall cease to have effect, if – (a) the bankruptcy order against him is annulled under section 142; or (b) he is discharged under section 138.	
	141. (1) A bankrupt, from the bankruptcy commencement date, shall, – (a) not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company; (b) without the previous sanction of the bankruptcy trustee, be prohibited from incurring any debt; (c) be required to inform his business partners	Restrictions on bankrupt.

	<p>that he is undergoing a bankruptcy process;</p> <p>(d) prior to entering into any financial or commercial transaction of such value as may be prescribed, either individually or jointly, inform all the parties involved in such transaction that he is undergoing a bankruptcy process;</p> <p>(e) without the previous sanction of the Adjudicating Authority, be incompetent to maintain any legal action or proceedings in relation to the bankruptcy debts; and</p> <p>(f) not be permitted to travel overseas without the permission of the Adjudicating Authority.</p>	
	<p>142. (1) The Adjudicating Authority may annul a bankruptcy order, whether or not the bankrupt is discharged, if it appears to the Adjudicating Authority that —</p> <p>(a) on any ground existing at the time the bankruptcy order was made, the bankruptcy order should not to have been made; or</p> <p>(b) both the bankruptcy debts and the expenses of the bankruptcy have all, since the making of the bankruptcy order, either been paid for or secured to the satisfaction of the Adjudicating Authority.</p> <p>(2) Where the Adjudicating Authority annuls a bankruptcy order under this section, any sale or other disposition of property, payment made or other things duly done by the bankruptcy trustee shall be valid except that the property of the bankrupt shall vest in such person as the Adjudicating Authority may appoint or, in default of any such appointment, revert to the bankrupt on such terms as the Adjudicating Authority may direct.</p> <p>(3) A copy of the order passed by the Adjudicating Authority under sub-section (1) shall be provided</p>	<p>Annulment of bankruptcy order.</p>

	<p>to -</p> <p>(a) the Board, for the purpose of recording an entry in the register referred to in section 191; and</p> <p>(b) the insolvency professional agency, for the purpose of releasing the performance security furnished by the resolution professional under section 208.</p> <p>(4) An annulment by the Adjudicating Authority under sub-section (1) shall bind all the creditors so far as it relates to any debts due to them which form a part of the bankruptcy.</p>	
	<p>143. The bankruptcy trustee shall perform his functions and duties in compliance with the code of conduct provided under section 208.</p>	<p>Standard of conduct.</p>
	<p>144. (1) A bankruptcy trustee appointed for conducting the bankruptcy process shall charge such fees may be specified in proportion to the value of the estate of the bankrupt.</p> <p>(2) The fees for the conduct of the bankruptcy process shall be paid to the bankruptcy trustee from the distribution of the estate of the bankrupt in the manner provided in section 178.</p>	<p>Fees of bankruptcy trustee.</p>
	<p>145. (1) Subject to the provisions of this section, the bankruptcy trustee may be replaced, on the application by the committee of the creditors if the bankruptcy trustee -</p>	<p>Replacement of bankruptcy trustee.</p>
	<p>(a) is acting or has acted unfairly so as to harm the interests of the creditor by conducting the bankruptcy process negligently or fraudulently as he -</p>	
	<p>(i) has failed to conduct the business as required under the bankruptcy process;</p> <p>(ii) has failed to give the creditor an opportunity to make a</p>	

	representation, wherever required, under this Chapter;	
	<ul style="list-style-type: none"> (iii) conducted investigation into the affairs of the bankrupt in violation of the provisions of this Act; (iv) realised the estate of the bankrupt in violation of the provisions of this Act; (v) distributed the estate of the bankrupt in violation of the provisions of this Act; (vi) colluded with the other party. 	
	(b) is not performing his functions as expeditiously or as efficiently as is reasonably practicable or has failed to exercise a reasonable standard of care expected of such professionals in the performance of his powers and functions.	
	(2) The Adjudicating Authority may, <i>suo motu</i> , make an order for the replacement of the bankruptcy trustee on the grounds mentioned in sub-section (1), in accordance with the procedure provided in this section.	
	(3) The Adjudicating Authority shall, within two days from the receipt of the application under sub-section (1), examine the application.	
	(4) Where the Adjudicating Authority is satisfied that it is necessary to replace the bankruptcy trustee, it shall make a request to the Board for a replacement of the bankruptcy trustee.	
	(5) The Board shall, within two days of the request of the Adjudicating Authority under sub-section (4) recommend a bankruptcy trustee as a replacement.	
	(6) The Adjudicating Authority shall appoint the bankruptcy trustee as recommended by the Board	

	under sub-section (5) within two days of receiving such recommendation.	
	(7) The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (6), on the date of his appointment.	
	(8) The Adjudicating Authority may give directions to the earlier bankruptcy trustee-	
	(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy process; and	
	(b) to co-operate with the new bankruptcy trustee in such matters as may be required.	
	(9) The Board shall take action, against the bankruptcy trustee against whom the application referred to in sub-section (1) has been filed and who has been replaced with a new bankruptcy trustee, under section 219.	
	(10) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.	
	(11) The bankruptcy trustee appointed under this section shall give a notice of his appointment to the bankrupt within two days of his appointment.	
	146. (1) A bankruptcy trustee may resign if -	Resignation by bankruptcy trustee.
	(a) he intends to cease practising as an insolvency professional; or	
	(b) there is conflict of interest or change of personal circumstances which preclude the further discharge of his duties as a bankruptcy trustee.	

	(2) The Adjudicating Authority shall, within two days of the acceptance of the resignation of the bankruptcy trustee, make a request to the Board for his replacement.	
	(3) The Board shall, within two days of the request of the Adjudicating Authority under sub-section (2) recommend a bankruptcy trustee as a replacement.	
	(4) The Adjudicating Authority shall appoint the bankruptcy trustee recommended by the Board under sub-section (3) within two days of receiving the recommendation.	
	(5) The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (4), on the date of his appointment.	
	(6) The Adjudicating Authority may give directions to the bankruptcy trustee who has resigned -	
	(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy process; and	
	(b) to co-operate with the new bankruptcy trustee in such matters as may be required.	
	(7) The bankruptcy trustee appointed under this section shall give a notice of his appointment to the committee of creditors and the bankrupt within two days of his appointment.	
	(8) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148.	
147.	(1) If a vacancy occurs in the office of the bankruptcy trustee for any reason other than his replacement or resignation, the vacancy shall be filled in accordance with the provisions of this section.	Vacancy in office of bankruptcy trustee.

	(2) In the event of the occurrence of vacancy referred to in sub-section (1), the Adjudicating Authority shall make a request to the Board for replacement of the bankruptcy trustee.	
	(3) The Board shall, within two days of the request of the Adjudicating Authority under sub-section (2) recommend a bankruptcy trustee as a replacement.	
	(4) The Adjudicating Authority shall appoint the bankruptcy trustee recommended by the Board under sub-section (3) within two days of receiving the recommendation.	
	(5) The earlier bankruptcy trustee shall deliver possession of the estate of the bankrupt to the bankruptcy trustee appointed under sub-section (4), on the date of his appointment	
	(6) The Adjudicating Authority may give directions to the bankruptcy trustee who has vacated the office -	
	(a) to share all information with the new bankruptcy trustee in respect of the bankruptcy; (b) to co-operate with the new bankruptcy trustee in such matters as may be required.	
	(7) The bankruptcy trustee appointed under sub-section (4) shall give a notice of his appointment to the committee of creditors and the bankrupt within two days of his appointment.	
	(8) The earlier bankruptcy trustee replaced under this section shall be released in accordance with the provisions of section 148:	
	<i>Provided</i> that this section shall not apply if the vacancy has occurred due to temporary illness or temporary leave of the bankruptcy trustee.	
148.	(1) A bankruptcy trustee shall be released from his office with effect from the date on which the	Release of bankruptcy

	Adjudicating Authority passes an order appointing a new bankruptcy trustee in the event of replacement, resignation or occurrence of vacancy under sections 145, 146 or 147, as the case may be.	trustee.
	(2) Notwithstanding the release under sub-section (1), the bankruptcy trustee who has been so released, shall share all information with the new bankruptcy trustee in respect of the bankruptcy process and co-operate with the new bankruptcy trustee in such matters as may be required.	
	(3) A bankruptcy trustee who has completed the administration of the bankruptcy process shall be released of his duties with effect from the date on which the committee of creditors approves the report of the bankruptcy trustee under section 137.	
	CHAPTER V ADMINISTRATION AND DISTRIBUTION OF THE ESTATE OF THE BANKRUPT	
	149. (1) The bankruptcy trustee shall perform the following functions in accordance with the provisions of this Chapter – (a) investigate the affairs of the bankrupt; (b) realise the estate of the bankrupt; and (c) distribute the estate of the bankrupt.	Functions of bankruptcy trustee.
	150. (1) The bankrupt shall assist the bankruptcy trustee in carrying out his functions under this Chapter by -	Duties of bankrupt towards bankruptcy trustee.
	(a) giving to the bankruptcy trustee the information of his affairs;	
	(b) attending on the bankruptcy trustee at such times as may be required;	
	(c) giving notice to the bankruptcy trustee of any of the following events which have	

	occurred after the bankruptcy commencement date, -	
	<ul style="list-style-type: none"> (i) acquisition of any property by the bankrupt; (ii) devolution of any property upon the bankrupt; (iii) increase in the income of the bankrupt; 	
	(d) doing all other things as may be necessary.	
	(2) The bankrupt shall give notice of the increase in income or acquisition or devolution of property under clause (c) of sub-section (1) within two days of such increase, acquisition or devolution.	
	(3) The duties under sub-section (1) other than duties under clause (c) of that sub-section shall also be required to be performed after the discharge under section 138.	
	<p>151. (1) For the purpose of performing his functions under this Chapter, the bankruptcy trustee may, by his official name -</p> <ul style="list-style-type: none"> (a) hold property of every description; (b) make contracts; (c) sue and be sued; (d) enter into engagements in respect of the estate of the bankrupt; (e) employ persons to act in his behalf; (f) execute any power of attorney, deed or other instrument; and (g) do any other act which is necessary or expedient for the purposes of or in connection with the exercise of his rights. 	Rights of bankruptcy trustee.
	152. (1) The bankruptcy trustee may while discharging his functions under this Chapter, -	General powers of bankruptcy

	<p>(a) sell any part of the estate of the bankrupt;</p> <p>(b) give receipts for any money received by him;</p> <p>(c) prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate;</p>	trustee.
	<p>(d) where any property comprised in the estate of the bankrupt is held by any person by way of pledge or hypothecation, exercise the right of redemption in respect of any such property subject to the relevant contract by giving notice to the said person;</p>	
	<p>(e) where any part of the estate of the bankrupt consists of securities in a company or any other property which is transferable in the books of a person, exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt; and</p>	
	<p>(f) deal with any property comprised in the estate of the bankrupt to which the bankrupt is beneficially entitled in the same manner as he might have dealt with it.</p>	
	<p>153. (1) The bankruptcy trustee for the purposes of this Chapter may after procuring the approval of the committee of creditors, -</p>	Acts requiring approval of creditors.
	<p>(a) carry on any business of the bankrupt as far as may be necessary for winding it up beneficially;</p>	
	<p>(b) bring, institute or defend any legal action or proceedings relating to the property comprised in the estate of the bankrupt;</p>	
	<p>(c) accept as consideration for the sale of any property a sum of money payable at a</p>	

	future time subject to certain stipulations such as security;	
	(d) mortgage or pledge any property for the purpose of raising money for the payment of the debts of the bankrupt;	
	(e) where any right, option or other power forms part of the estate of the bankrupt, make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any property which is the subject of such right, option or power;	
	(f) refer to arbitration or compromise on such terms as may be agreed, any debts subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt;	
	(g) make compromise or other arrangement as may be considered expedient, with the creditors;	
	(h) make compromise or other arrangement as he may deem expedient with respect to any claim arising out of or incidental to the bankrupt's estate;	
	(i) appoint the bankrupt to -	
	(i) supervise the management of the estate of the bankrupt or any part of it;	
	(ii) carry on his business for the benefit of his creditors;	
	(iii) assist the bankruptcy trustee in administering the estate of the bankrupt.	
	(2) Where the bankruptcy trustee has done anything without the approval required under sub-section	

	(1), the committee of creditors may ratify the actions of the bankruptcy trustee only where the bankruptcy trustee has acted due to an urgency and he has sought ratification without undue delay.	
	<p>154. (1) The estate of the bankrupt shall vest in the bankruptcy trustee immediately from the date of his appointment.</p> <p>(2) The vesting under sub-section (1) shall take effect without any conveyance, assignment or transfer.</p>	Vesting of estate of bankrupt in bankruptcy trustee.
	<p>155. (1) The estate of the bankrupt shall include, –</p> <p>(a) all property belonging to or vested in the bankrupt at the bankruptcy commencement date;</p> <p>(b) the capacity to exercise and to initiate proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the bankruptcy commencement date or before the date of the discharge order passed under section 138; and</p> <p>(c) all property which by virtue of any of the provisions of this Chapter is comprised in the estate.</p> <p>(2) The estate of the bankrupt shall not include –</p> <p>(a) excluded assets; and</p> <p>(b) property held by the bankrupt on trust for any other person.</p>	Estate of bankrupt.
	<p>156. (1) Persons having possession of any property, books, papers or other records which bankruptcy trustee is required to take possession for the purposes of the bankruptcy process shall deliver the said property and documents to the bankruptcy trustee.</p>	Delivery of property and documents to bankruptcy trustee.
	(2) The obligation under sub-section (1) shall apply to the bankrupt, his banker or agent or any other person.	

	<p>157. (1) The bankruptcy trustee shall take possession and control of all property, books, papers and other records relating to the estate of the bankrupt or affairs of the bankrupt which belong to him or are in his possession or under his control.</p>	<p>Acquisition of control by bankruptcy trustee.</p>
	<p>(2) Where any part of the estate of the bankrupt consists of things in actionable claims, they shall be deemed to have been assigned to the bankruptcy trustee and notice of the assignment need not be given except in so far as it is necessary.</p>	
	<p>158. (1) Disposition of any property made by the debtor, during the period between the date of filing of the application for bankruptcy and the bankruptcy commencement date shall be deemed to be void.</p> <p>(2) Disposition of any property made under sub-section (1) shall not give rise to any remedy against any person, in respect of such property, which he has received before the bankruptcy commencement date in good faith, for value and without notice of the filing of the application for bankruptcy.</p> <p>(3) For the purposes of this section, the term “property” means all the property of the debtor, whether or not it is comprised in the estate of the bankrupt, but shall not include property held by the debtor in trust for any other person.</p>	<p>Restrictions on disposition of property.</p>
	<p>159. (1) The bankruptcy trustee shall be entitled to claim for the estate of the bankrupt, any after-acquired property by giving a notice to the bankrupt.</p>	<p>Treatment of after acquired property.</p>
	<p>(2) A notice under sub-section (1) shall not be served in respect of -</p>	
	<p>(a) excluded assets, or</p>	
	<p>(b) any property which is acquired by or devolves upon the bankrupt after a discharge order is passed under section 138.</p>	
	<p>(3) The notice under sub-section (2) shall be given</p>	

	<p>within fifteen days from the day on which the acquisition or devolution of the after acquired property comes to the knowledge of the bankruptcy trustee.</p>	
	<p>(4) For the purposes of sub-section (3)-</p>	
	<p>(a) anything which comes to the knowledge of the bankruptcy trustee shall be deemed to have come to the knowledge of the successor of the bankruptcy trustee at the same time; and</p>	
	<p>(b) anything which comes to the knowledge of a person before he is appointed as a bankruptcy trustee shall be deemed to have come to his knowledge on the date of his appointment as bankruptcy trustee.</p>	
	<p>(5) The bankruptcy trustee shall not be entitled, by virtue of this section, to claim from any person who has acquired any right over after acquired property, in good faith, for value and without notice of the bankruptcy.</p>	
	<p>(6) A notice may be served after the expiry of the period under sub-section (3) only with the approval of the Adjudicating Authority.</p>	
	<p><i>Explanation.</i> – For the purposes of this section, the term "after-acquired property" means any property which has been acquired by or has devolved upon the bankrupt after the bankruptcy commencement date.</p>	
160.	<p>(1) The bankruptcy trustee may, by giving notice to the bankrupt or any person interested in the onerous property, disclaim any onerous property which forms a part of the estate of the bankrupt.</p>	<p>Treatment of onerous property.</p>
	<p>(2) The bankruptcy trustee may give the notice under sub-section (1) notwithstanding that he has taken possession of the onerous property, endeavoured to sell it or has exercised rights of ownership in</p>	

	relation to it.	
	(3) A notice of disclaimer shall -	
	(a) determine, as from the date of disclaimer, the rights, interests and liabilities of the bankrupt in respect of the onerous property disclaimed;	
	(b) discharge the bankruptcy trustee from all personal liability in respect of the onerous property as from the date of appointment of the bankruptcy trustee.	
	(4) A notice of disclaimer under sub-section (1) shall not be given in respect of the property which has been claimed for the estate of the bankrupt under section 155 without the permission of the committee of creditors.	
	(5) A notice of disclaimer under sub-section (1) shall not affect the rights or liabilities of any other person, and any person who sustains a loss or damage in consequence of the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the loss or damage.	
	<i>Explanation.</i> – For the purposes of this section, the term “onerous property” means -	
	(i) any unprofitable contract; and	
	(ii) any other property comprised in the estate of the bankrupt which is unsaleable or not readily saleable, or is such that it may give rise to a claim.	
	161. (1) The notice of disclaimer under section 160 shall not be given if -	Notice to disclaim onerous property.
	(a) a person interested in the onerous property has applied in writing to the bankruptcy trustee or his predecessor requiring him to decide whether the onerous property	

	should be disclaimed or not; and	
	(b) a decision under clause (a) has not been taken by the bankruptcy trustee within seven days of receipt of the notice.	
	(2) The bankruptcy trustee shall be deemed to have included in the estate of the bankrupt, any onerous property which cannot be disclaimed under sub-section (1).	
	<i>Explanation.</i> – For the purposes of this section, an onerous property is said to be disclaimed where notice in relation to that property has been given by the bankruptcy trustee under section 160.	
162.	<p>(1) The bankruptcy trustee shall not be entitled to disclaim any leasehold interest, unless a notice of disclaimer has been served on every interested person and –</p> <p>(a) no application objecting to the disclaimer by the interested person, has been filed with respect to the leasehold interest, within fourteen days of the date on which notice was served; and</p> <p>(b) where the application objecting to the disclaimer has been filed by the interested person, the Adjudicating Authority has directed under section 163 that the disclaimer shall take effect.</p> <p>(2) Where the Adjudicating Authority gives a direction under clause (b) of sub-section (1), it may also make order with respect to fixtures, improvements by tenant and other matters arising out of the lease as it may think fit.</p>	Disclaimer of leaseholds.
163.	(1) An application challenging the disclaimer may be made by the following persons under this section to the Adjudicating Authority-	Challenge against disclaimed property.
	(a) any person who claims an interest in the disclaimed property; or	

	(b) any person who is under any liability in respect of the disclaimed property; or	
	(c) where the disclaimed property is a dwelling house, any person who on the date of application for bankruptcy was in occupation of or entitled to occupy that dwelling house.	
	(2) The Adjudicating Authority may on an application under sub-section (1) make an order for the vesting of the disclaimed property in, or for its delivery to any of the persons mentioned in sub-section (1).	
	(3) The Adjudicating Authority shall not make an order in favour of a person who has made an application under clause (b) of sub-section (1) except where it appears to the Adjudicating Authority that it would be just to do so for the purpose of compensating the person.	
	(4) The effect of an order under this section shall be taken into account while assessing loss or damage sustained by any person in consequence of the disclaimer under sub-section (5) of section 160.	
	An order under sub-section (2) vesting property in any person need not be completed by any consequence, assignment or transfer.	
	164. (1) The bankruptcy trustee may apply to the Adjudicating Authority for an order under this section in respect of an undervalued transaction between a bankrupt and any person.	Treatment of transactions at undervalue.
	(2) The undervalued transaction referred to in sub-section (1) should have – (a) been entered into during the period of two years ending on the filing of the application for bankruptcy; and (b) caused bankruptcy process to be triggered.	

	(3) A transaction between a bankrupt and his associate entered into during the period of two years preceding the date of making of the application for bankruptcy shall be deemed to be an undervalued transaction under this section.	
	(4) On the application of the bankruptcy trustee under sub-section (1), the Adjudicating Authority may -	
	(a) pass an order declaring an undervalued transaction void;	
	(b) pass an order requiring any property transferred as a part of an undervalued transaction to be vested with the bankruptcy trustee as a part of the estate of the bankrupt; and	
	(c) pass any other order it thinks fit for restoring the position to what it would have been if the bankrupt had not entered into the undervalued transaction.	
	(5) The order under clause (a) of sub-section (4) shall not be passed if it is proved by the bankrupt that the transaction was undertaken in the ordinary course of business of the bankrupt.	
	(6) For the purposes of sub-section (5), bankrupt does not include an associate of the bankrupt who has entered into an undervalued transaction under sub-section (3).	
	(7) For the purposes of this section, a bankrupt enters into an undervalued transaction with any person if -	
	(a) he makes a gift to that person;	
	(b) no consideration has been received by that person from the bankrupt;	
	(c) it is in consideration of marriage; or	
	(d) it is for a consideration, the value of which	

	<p>in money or money's worth is significantly less than the value in money or money's worth of the consideration provided by the bankrupt.</p>	
	<p>165. (1) The bankruptcy trustee may apply to the Adjudicating Authority for an order under this section if a bankrupt has given a preference to any person.</p> <p>(2) The transaction giving preference to an associate of the bankrupt under sub-section (1) should have been entered into by the bankrupt with the associate during the period of two years ending on the date of the application for bankruptcy.</p> <p>(3) Any transaction giving preference not covered under sub-section (2) should have been entered into by the bankrupt during the period of six months ending on the date of the application for bankruptcy.</p> <p>(4) The transaction giving preference under sub-section (2) or under sub-section (3) should have caused the bankruptcy process to be triggered.</p> <p>(5) On the application of the bankruptcy trustee under sub-section (1), the Adjudicating Authority may –</p> <p>(a) pass an order declaring a transaction giving preference void;</p> <p>(b) pass an order requiring any property transferred in respect of a transaction giving preference to be vested with the bankruptcy trustee as a part of the estate of the bankrupt; and</p> <p>(c) pass any other order it thinks fit for restoring the position to what it would have been if the bankrupt had not entered into the transaction giving preference.</p> <p>(6) The Adjudicating Authority shall not pass an order under sub-section (5) unless the bankrupt was influenced in his decision of giving preference to a person by a desire to produce in relation to that</p>	<p>Treatment of transactions giving preference.</p>

	<p>person an effect under clause (b) of sub-section (8).</p> <p>(7) For the purpose of sub-section (6), if the person is an associate of the bankrupt, otherwise than by reason only of being his employee), at the time when the preference was given, it shall be presumed that the bankrupt was influenced in his decision under that sub-section.</p> <p>(8) For the purposes of this section, a bankrupt enters a transaction giving preference to any person if –</p> <p>(a) the person is the creditor or surety or guarantor for any debt of the bankrupt; and</p> <p>(b) the bankrupt does anything or suffers anything to be done which has the effect of putting that person into a position which, in the event of the debtor becoming a bankrupt, will be better than the position he would have been in, if that thing had not been done.</p>	
	<p>166. (1) Subject to the provision of sub-section (2) , an order passed by the Adjudicating Authority under section 164 or section 165 shall not, -</p>	<p>Bona-fide purchasers.</p>
	<p>(a) give rise to a remedy against the interest of a person in the property which was acquired in an undervalued transaction or a transaction giving preference, whether or not he is the person with whom the bankrupt entered into such transaction.</p>	
	<p>(b) require any person to pay a sum to the bankruptcy trustee in respect of the benefit received from the undervalued transaction or a transaction giving preference, whether or not he is the person with whom the bankrupt entered into such transaction.</p>	
	<p>(2) The provision of sub-section (1) shall apply only if the interest was acquired or the benefit was received -</p>	

	(a) in good faith;	
	(b) for value;	
	(c) without notice that the bankrupt entered into the transaction at an undervalue or for giving preference;	
	(d) without notice that the bankrupt has filed an application for bankruptcy or a bankruptcy order has been passed; and	
	(e) by any person who at the time of acquiring the interest or receiving the benefit was not an associate of the bankrupt.	
	(3) Any sum required to be paid to the bankruptcy trustee under sub-section (1) shall be included in the estate of the bankrupt.	
167.	(1) On an application by the bankruptcy trustee, the Adjudicating Authority may make an order under this section in respect of extortionate credit transactions to which the bankrupt is or has been a party.	Treatment of extortionate credit transactions.
	(2) The transactions under sub-section (1) should have been entered into by the bankrupt during the period of two years ending on the bankruptcy commencement date.	
	(3) An order of the Adjudicating Authority may -	
	(a) set aside the whole or part of any debt created by the transaction;	
	(b) vary the terms of the transaction or vary the terms on which any security for the purposes of the transaction is held;	
	(c) require any person who has been paid by the bankrupt under any transaction, to pay a sum to the bankruptcy trustee;	

	(d) Require any person to surrender to the bankruptcy trustee any property of the bankrupt held as security for the purposes of the transaction.	
	(4) Any sum paid or any property surrendered to the bankruptcy trustee shall be included in the estate of the bankrupt.	
	(5) For the purposes of this section, an extortionate credit transaction is a transaction for or involving the provision of credit to the bankrupt by any person-	
	(a) on terms requiring the bankrupt to make exorbitant payments in respect of the credit provided; or	
	(b) is unconscionable under the principles of law relating to contracts.	
168.	<p>(1) This section shall apply where a contract has been entered into by the bankrupt with a person before the bankruptcy commencement date.</p> <p>(2) Any party to a contract, other than the bankrupt under sub-section (1), may apply to the Adjudicating Authority for –</p> <p>(a) an order discharging the obligations of the applicant or the bankrupt under the contract; and</p> <p>(b) payment of damages by the party or the bankrupt, for non-performance of the contract or otherwise.</p> <p>(3) Any damages payable by the bankrupt by virtue of an order under clause (b) of sub-section (2) shall be provable as bankruptcy debt.</p> <p>(4) When a bankrupt is a party to the contract under this section jointly with another person, that person may sue or be sued in respect of the contract without joinder of the bankrupt.</p>	Treatment of contracts.

	<p>169. If a bankrupt dies, the bankruptcy proceedings shall, unless the Adjudicating Authority directs otherwise, be continued as if he were alive.</p>	<p>Continuance of proceedings on death of bankrupt.</p>
	<p>170. (1) All the provisions of Chapter V relating to the administration and distribution of the estate of the bankrupt shall, so far as the same are applicable, apply to the administration of the estate of a deceased bankrupt.</p> <p>(2) While administering the estate of a deceased bankrupt, the bankruptcy trustee shall have regard to the claims by the legal representative of the deceased bankrupt to payment of the proper funeral and testamentary expenses incurred by him.</p> <p>(3) The claims under sub-section (2) shall rank equally to the secured creditors in the priority provided under section 178.</p> <p>(4) If, on the administration of the estate of a deceased bankrupt, any surplus remains in the hands of the bankruptcy trustee after payment in full of all the debts due from the deceased bankrupt, together with the costs of the administration and interest as provided under section 178, such surplus shall be paid to the legal representatives of the estate of the deceased bankrupt or dealt with in such manner as may be prescribed.</p>	<p>Administration of estate of deceased bankrupt.</p>
	<p>171. (1) The bankruptcy trustee shall give notice to each of the creditors to submit proof of debt within fourteen days of preparing the list of creditors under section 132.</p> <p>(2) The proof of debt shall –</p> <p>(a) require the creditor to give full particulars of debt, including the date on which the debt was contracted and the value at which that person assesses it;</p> <p>(b) require the creditor to give full particulars of the security, including the date on which the security was given and the value at</p>	<p>Proof of debts.</p>

	<p>which that person assesses it;</p> <p>(c) be in such form and manner as may be prescribed.</p> <p>(3) In case the creditor is a decree holder against the bankrupt, a copy of the decree shall be a valid proof of debt.</p> <p>(4) Where a debt bears interest, that interest shall be provable as part of the debt except in so far as it is payable in respect of any period after the bankruptcy commencement date.</p> <p>(5) The bankruptcy trustee shall estimate the value of any bankruptcy debt which does not have a specific value.</p> <p>(6) The value assigned by the bankruptcy trustee under sub-section (5) shall be the amount provable by the concerned creditor.</p> <p>(7) Where the bankruptcy trustee serves a notice under sub-section (1) and the person on whom the notice is served does not file a proof of security within thirty days after the date of service of the notice, the bankruptcy trustee may, with leave of the Adjudicating Authority, sell or dispose of any property that was subject to the security, free of that security.</p>	
	<p>172. (1) Where a secured creditor realises his security, he may produce proof of the balance due to him.</p> <p>(2) Where a secured creditor surrenders his security to the bankruptcy trustee for the general benefit of the creditors, he may produce proof of his whole claim.</p>	<p>Proof of debts by secured creditors.</p>
	<p>173. (1) Where before the bankruptcy commencement date, there have been mutual dealings between the bankrupt and any creditor, the bankruptcy trustee shall -</p> <p>(a) take an account of what is due from each party to the other in respect of the mutual dealings and the sums due from one party</p>	<p>Mutual credit and set-off.</p>

	<p>shall be set off against the sums due from the other; and</p> <p>(b) only the balance shall be provable as a bankruptcy debt or as the amount payable to the bankruptcy trustee as part of the estate of the bankrupt.</p> <p>(2) Sums due from the bankrupt to another party shall not be included in the account taken by the bankruptcy trustee under sub-section (1), if that other party had notice at the time they became due that an application for bankruptcy relating to the bankrupt was pending.</p>	
	<p>174. (1) Whenever the bankruptcy trustee has sufficient funds in his hand, he may declare and distribute interim dividend among the creditors in respect of the bankruptcy debts which they have respectively proved.</p> <p>(2) Where the bankruptcy trustee has declared any interim dividend, he shall give notice of such dividend and of how it is proposed to be distributed.</p> <p>(3) In the calculation and distribution of the interim dividend, the bankruptcy trustee shall make provision for -</p> <p>(a) any bankruptcy debts which appear to him to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to tender and establish their debts; and</p> <p>(b) any bankruptcy debts which are subject of claims which have not yet been determined;</p> <p>(c) disputed proofs and claims; and</p> <p>(d) expenses necessary for the administration of the estate of the bankrupt.</p>	<p>Distribution of interim dividend.</p>
	<p>175. (1) The bankruptcy trustee may, with the approval of the committee of creditors, divide in its existing</p>	<p>Distribution of property.</p>

	<p>form amongst the creditors, according to its estimated value, any property in its existing form which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.</p> <p>(2) An approval under sub-section (1) shall be sought by the bankruptcy trustee for each transaction, and a person dealing with the bankruptcy trustee in good faith and for value shall not be required to enquire whether any approval required under sub-section (1) has been given.</p> <p>(3) Where the bankruptcy trustee has done anything without the approval of the committee of creditors, the committee may, for the purpose of enabling him to meet his expenses out of the estate of the bankrupt, ratify the act of the bankruptcy trustee.</p> <p>(4) The committee of the creditors shall not ratify the act of the bankruptcy trustee under sub-section (3) unless it is satisfied that the bankruptcy trustee acted in a case of urgency and has sought its ratification without undue delay.</p>	
	<p>176. (1) Where the bankruptcy trustee has realised the entire estate of the bankrupt or so much of it as could be realised in the opinion of the bankruptcy trustee, he shall give notice -</p> <p>(a) of his intention to declare a final dividend; or</p> <p>(b) that no dividend or further dividend shall be declared.</p>	<p>Final dividend.</p>
	<p>(2) The notice under sub-section (1) shall contain such particulars as may be prescribed and shall require all claims against the estate of the bankrupt to be established by a final date specified in the notice.</p>	
	<p>(3) The Adjudicating Authority may, on the application of any person interested in the administration of the estate of the bankrupt, postpone the final date referred to in sub-section</p>	

	(2).	
	<p>(4) After the final date referred to in sub-section (2), the bankruptcy trustee shall -</p> <p>(a) defray any outstanding expenses of the bankruptcy out of the estate of the bankrupt; and</p> <p>(b) if he intends to declare a final dividend, declare and distribute that dividend among the creditors who have proved their debts, without regard to the claims of any other persons.</p> <p>(5) If a surplus remains after payment in full with interest to all the creditors of the bankrupt and the payment of the expenses of the bankruptcy, the bankrupt shall be entitled to the surplus.</p> <p>(6) Where a bankruptcy order has been passed in respect of one partner in a firm, a creditor to whom the bankrupt is indebted jointly with the other partners in the firm or any of them shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.</p>	
	<p>177. (1) A creditor who has not proved his debt before the declaration of any dividend is not entitled to disturb, by reason that he has not participated in it, the distribution of that dividend or any other dividend declared before his debt was proved, but –</p> <p>(a) when he has proved the debt, he shall be entitled to be paid any dividend or dividends which he has failed to receive, out of any money for the time being available for the payment of any further dividend; and</p> <p>(b) any dividend or dividends payable to him shall be paid before that money is applied to the payment of any such further dividend.</p> <p>(2) No action shall lie against the bankruptcy trustee for a dividend, but if the bankruptcy trustee refuses to pay a dividend payable under sub-section (1), the Adjudicating Authority may order him to –</p>	<p>Claims of creditors</p>

	<ul style="list-style-type: none"> (a) pay the dividend; and (b) pay, out of his own money - <ul style="list-style-type: none"> (i) interest on the dividend; and (ii) the costs of the proceedings in which the order to pay has been made. 	
	<p>178. (1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or the State Legislature for the time being in force, in the distribution of the final dividend, the following debts shall be paid in priority to all other debts —</p> <ul style="list-style-type: none"> (a) firstly, the costs and expenses incurred by the bankruptcy trustee for the bankruptcy process in full; (b) secondly, - <ul style="list-style-type: none"> (i) debts owed to secured creditors; and (ii) wages and unpaid dues payable to workmen of the bankrupt for the whole or any part of the period of three months before the bankruptcy commencement date; (c) thirdly, wages and unpaid dues payable to employees, other than workmen, of the bankrupt for the whole or any part of the period of three months before the bankruptcy commencement date; (d) fourthly, - <ul style="list-style-type: none"> (i) amounts due to the Central Government and the State Government in respect of the whole or any part of the period of two years before the bankruptcy commencement date; (ii) wages and unpaid dues payable to workmen of the bankrupt for the whole or any part of the period of nine months beginning from twelve months before the bankruptcy commencement date and ending three months before the bankruptcy commencement date; 	<p>Priority of debts.</p>

	<p>(iii) wages and unpaid dues payable to employees, other than workmen, of the bankrupt for the whole or any part of the period of three months beginning from six months before the bankruptcy commencement date and ending three months before the bankruptcy commencement date;</p> <p>(e) lastly, all other debts owed by the bankrupt, including unsecured debts.</p>	
	<p>(2) The debts in each class specified in sub-section (1) shall rank in the order mentioned in that sub-section but debts of the same class shall rank equally amongst themselves, and shall be paid in full, unless the estate of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.</p>	
	<p>(3) Where any creditor has given any indemnity or has made any payment of moneys by virtue of which any asset of the bankrupt has been recovered, protected or preserved, the Adjudicating Authority may make such order as it thinks just with respect to the distribution of such asset with a view to giving that creditor an advantage over other creditors in consideration of the risks taken by him in so doing.</p>	
	<p>(4) Unsecured creditors shall rank equally amongst themselves unless contractually agreed to the contrary by such creditors.</p>	
	<p>(5) Any surplus remaining after the payment of the debts under sub-section (1) shall be applied in paying interest on those debts in respect of the periods during which they have been outstanding since the bankruptcy commencement date.</p>	
	<p>(6) Interest payments under sub-section (5) shall rank equally irrespective of the nature of the debt.</p>	

	(7) In the case of partners, the partnership property shall be applicable in the first instance in payment of the partnership debts and the separate property of each partner shall be applicable in the first instance in payment of his separate debts.	
	(8) Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.	
	CHAPTER VI ADJUDICATING AUTHORITY FOR INDIVIDUALS AND PARTNERSHIP FIRMS	
	179. (1) Subject to the provisions of section 60, the Adjudicating Authority, in relation to insolvency matters of individuals and firms shall be the Debt Recovery Tribunal having territorial jurisdiction over the place where the individual debtor actually and voluntarily resides or carries on business or personally works for gain can entertain an application under this Act regarding such person.	Adjudicating Authority for individuals and partnership firms
	(2) The Adjudicating Authority of the Debt Recovery Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain or dispose of - (a) any suit or proceeding by or against the individual debtor; (b) any claim made by or against the individual debtor; (c) any question of priorities or any other question whatsoever, whether of law or facts, arising out of or in relation to liquidation of the individual debtor.	
	(3) The Debt Recovery Tribunal shall have jurisdiction to entertain or dispose of any suit,	

	proceeding, claim or question under sub-section (3) or (4) whether such suit, proceeding, claim or question has been instituted or has arisen on, before or after the liquidation order has been made.	
	(4) Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation specified for any suit or application in the name and on behalf of a debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded.	
	180. (1) No civil court or authority shall have jurisdiction to entertain any suit or proceedings in respect of any matter on which the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal has jurisdiction under this Act. (2) No injunction shall be granted by any court, tribunal or authority in respect of any action taken, or to be taken, in pursuance of any power conferred on the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal by or under this Act.	Civil court not to have jurisdiction.
	181. (1) An appeal from an order of the Debt Recovery Tribunal under this Act shall be filed within forty five days before the Debt Recovery Appellate Tribunal.	Appeal to Debt Recovery Appellate Tribunal.
	(2) The Debt Recovery Appellate Tribunal may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within forty five days, allow the appeal to be filed within a further period not exceeding thirty days.	
	182. (1) An appeal from an order of the Debt Recovery Appellate Tribunal on a question of law under this Act shall be filed within ninety days before the Supreme Court.	Appeal to Supreme Court.

	<p>(2) The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within ninety days, allow the appeal to be filed within a further period not exceeding thirty days.</p>	
	<p>183. Where an application is not disposed of or order is not passed within the period specified in the Act, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be, shall record the reasons for not doing so within the period so specified; and the Chairperson of the Debt Recovery Appellate Tribunal, after taking into account the reasons so recorded, extend the period specified in the Act by a period not exceeding five days.</p>	<p>Expeditious disposal of applications.</p>
	<p style="text-align: center;">CHAPTER VII OFFENCES AND PENALTIES</p>	
	<p>184. (1) If a debtor or creditor provides information which is false in any material particulars with the resolution professional, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees;</p> <p>(2) If a creditor promises to vote in favour of the repayment plan by accepting any money, property or security from the debtor, he shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to thrice the amount or its equivalent accepted by the creditor:</p> <p><i>Provided</i> that where such amount is not quantifiable, the total amount of fine shall not exceed more than twenty five thousand rupees.</p>	<p>Punishment for false information etc. by creditor in insolvency resolution process.</p>
	<p>185. If a resolution professional dishonestly fails to perform his duties under Chapter III, he shall be punishable with imprisonment for a term which may extend to 6 months and he may also be liable for payment of compensation to the debtor or the creditor, as the case may be.</p>	<p>Liability of resolution professional under insolvency resolution process.</p>

	<p>186. If the bankrupt -</p> <p>(a) knowingly makes a false representation or wilfully omits or conceals any material information while making an application for bankruptcy under section 122 or while providing any information during the bankruptcy process, he shall be punishable with imprisonment which may extend to six months and fine which may extend to fifteen thousand rupees;</p> <p><i>Explanation.</i> – For the purposes of clause (a), a false representation or omission includes non-disclosure of the details of disposal of any property, which but for the disposal, would be comprised in the estate of the bankrupt, other than dispositions made in the ordinary course of business carried on by the bankrupt.</p> <p>(b) fraudulently with an intent to conceal, has, failed to provide, prevented or purposely withheld the production of, destroyed, falsified or altered his books of accounts, financial information and other records of which he has possession, he shall be punishable with imprisonment which may extend to one year and fine which may extend to twenty five thousand rupees;</p> <p>(c) has contravened the restrictions under section 140 or the provisions of section 141, he shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to twenty five thousand rupees;</p> <p>(d) has failed to deliver the possession of any property comprised in the estate of the bankrupt under his possession or control, which he is required to deliver under section 156, he shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to twenty five thousand rupees;</p> <p>(e) has failed to account, without any reasonable cause or satisfactory explanation, for any loss of any substantial part of his property comprised in the estate of the bankrupt incurred from the date which</p>	<p>Punishment for false information, concealment etc. by bankrupt.</p>
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	<p>is twelve months before the filing of the bankruptcy application and the bankruptcy commencement date, he shall be punishable with imprisonment for a term which may extend to two years and fine which may extend to three times of the value of the loss:</p> <p><i>Provided</i> that that where such loss is not quantifiable, the total amount of fine imposed shall not exceed more than twenty five lakh rupees.</p> <p>(f) has absconded or attempts to absconds after the bankruptcy commencement date, he shall be punishable with imprisonment for a term which may extend to one year and fine which may extend to twenty five thousand rupees.</p> <p><i>Explanation.</i> – For the purposes of this clause, a bankrupt shall be deemed to have absconded if he leaves, or attempts to leave the country without delivering the possession any property which he is required to deliver to the bankruptcy trustee under section 156.</p>	
	<p>187. (1) If a bankruptcy trustee, –</p> <p>(a) has fraudulently misapplied, retained or become accountable for any money or property comprised in the estate of the bankrupt; or</p> <p>(b) has wilfully acted in a manner that the estate of the bankrupt has suffered any loss in consequence of breach of any duty of the bankruptcy trustee in carrying out his functions under section 149,</p> <p>he shall be punishable with imprisonment for a term which may extend to three years and with fine which shall not be less than three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention:</p> <p><i>Provided</i> that where such loss or unlawful gain is not quantifiable, the total amount of fine imposed shall not exceed more one lakh rupees:</p> <p><i>Provided</i> further that the bankruptcy trustee shall</p>	<p>Liability of bankruptcy trustee</p>

	not be liable under this section if he seizes or disposes of any property which is not comprised in the estate of the bankrupt and at that time had reasonable grounds to believe that he is entitled to seize or dispose that property.	
	PART IV	
	REGULATION OF INSOLVENCY PROFESSIONALS, AGENCIES AND INFORMATION UTILITIES	
	CHAPTER I	
	THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA	
	188. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Insolvency and Bankruptcy Board of India.	Establishment and incorporation of Board.
	(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.	
	(3) The head office of the Board shall be at Mumbai.	
	(4) The Board may establish offices at other places in India and also outside India.	
	189. (1) The Board shall consist of the following members who shall be appointed by the Central Government, namely:- (a) a Chairperson; (b) two members from amongst the officials of the Central Government, one each to represent the Ministry of Finance and the Ministry of Corporate Affairs, <i>ex officio</i> ;	Management of Board.

	<p>(c) one member from amongst the officials of the Reserve Bank of India;</p> <p>(d) five other members of whom at least three shall be the whole-time members.</p>	
	<p>(2) The Chairperson and the other members shall be persons of ability, integrity and standing, who have shown capacity in dealing with problems relating to insolvency or bankruptcy and have special knowledge and experience in the field of law, finance, economics, accountancy or administration.</p>	
	<p>(3) Every appointment under this section shall be made after obtaining the recommendation of a selection committee consisting of a chairperson and three independent experts from the field of law, finance and accountancy to be nominated by the Central Government.</p>	
	<p>(4) The term of office of the Chairperson and members (other than <i>ex-officio</i> members) shall be five years or till they attain the age of sixty five years, whichever is earlier, and they shall be eligible for re-appointment.</p>	
	<p>(5) The term of office of the <i>ex-officio</i> members shall continue for as long as they hold the office by virtue of which they are appointed.</p>	
	<p>(6) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and members (other than the <i>ex-officio</i> members) shall be such as may be prescribed.</p>	
	<p>190. The Central Government shall remove a member from office if he—</p> <p>(a) is an undischarged bankrupt as defined under Part III;</p> <p>(b) is of unsound mind and stands so declared by a competent court;</p> <p>(c) has been convicted of an offence involving moral</p>	<p>Removal of member from office.</p>

	<p>turpitude;</p> <p>(d) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:</p>	
	<p><i>Provided</i> that no member shall be removed under clause (d) unless he has been given a reasonable opportunity of being heard in the matter.</p>	
	<p>191. Save as otherwise determined by regulations, the Chairperson shall have powers of general superintendence and direction of the affairs of the Board and may also exercise such other powers as may be delegated to him by the Board.</p>	<p>Powers of Chairperson.</p>
	<p>192. (1) The Board shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be prescribed.</p>	<p>Meetings of Board.</p>
	<p>(2) The Chairperson, or if, for any reason, the Chairperson is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.</p>	
	<p>(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have a second or casting vote.</p>	
	<p>193. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.</p>	<p>Member not to participate in meetings in certain cases.</p>
	<p>194. No act or proceeding of the Board shall be invalid merely by reason of –</p>	<p>Vacancies etc., not to invalidate</p>

	<p>(a) any vacancy in, or any defect in the constitution of, the Board; or</p> <p>(b) any defect in the appointment of a person acting as a member of the Board; or</p> <p>(c) any irregularity in the procedure of the Board not affecting the merits of the case.</p>	proceedings of Board.
	<p>195. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.</p>	Officers and employees of Board.
	<p>(2) The salaries and allowances payable to, and other terms and conditions of service of, officers and employees of the Board appointed under subsection (1) shall be such as may be specified by regulations.</p>	
	<p>CHAPTER II</p> <p>POWERS AND FUNCTIONS OF THE BOARD</p>	
	<p>196. (1) The Board shall, subject to the general direction of the Central Government, perform all or any of the following functions namely :-</p>	Powers and functions of Board.
	<p>(a) register insolvency professional agencies, insolvency professionals and information utilities and revoke such registrations on the basis of complaints, application for revocation or otherwise;</p>	
	<p>(b) specify the minimum eligibility requirements for registration of insolvency professional agencies, insolvency professionals and information utilities;</p>	
	<p>(c) levy fee or other charges for the registration of insolvency professional agencies, insolvency professionals and information utilities;</p>	
	<p>(d) specify by regulations standards for the functioning of insolvency professional</p>	

	agencies, insolvency professionals and information utilities;	
	(e) carry out inspections and investigations of insolvency professional agencies, insolvency professionals and information utilities and pass such orders as may be required for compliance of the provisions of this Act and the regulations issued hereunder;	
	(f) monitor the performance of insolvency professional agencies, insolvency professionals and information utilities and pass any directions as may be required for compliance of the provisions of this Act and the regulations issued hereunder;	
	(g) call for any information and records from the insolvency professional agencies, insolvency professionals and information utilities;	
	(h) specify by regulations the minimum curriculum for the examination of the insolvency professionals for their enrolment as members of the insolvency professional agencies;	
	(i) publish such information, data, research studies and other information as may be specified by regulations;	
	(j) specify by regulations manner of collecting and storing data by the information utilities and for providing access to such data;	
	(k) collect and maintain records relating to insolvency and bankruptcy cases and disseminate information relating so such cases;	
	(l) constitute such committees as may be required including in particular the	

	committees laid down in section 197;	
	(m) promote transparency and best practices in its governance;	
	(n) maintain websites and such other universally accessible repositories of electronic information as may be necessary;	
	(o) enter into memorandum of understanding with any other statutory authorities;	
	(p) issue necessary guidelines to the insolvency professional agencies, insolvency professionals and information utilities;	
	(q) specify mechanism for redressal of grievances against insolvency professionals, insolvency professional agencies and information utilities and pass orders relating to complaints filed against the aforesaid for compliance of the provisions of this Act and the regulations issued hereunder;	
	(r) conduct periodic study, research and audit the functioning and performance of to the insolvency professional agencies, insolvency professionals and information utilities at such intervals as may be specified by the Board;	
	(s) specify mechanisms for issuing regulations, including the conduct of public consultation processes before notification of any regulations;	
	(t) issue regulations and guidances on matters relating to insolvency and bankruptcy as may be required under this Act; and	

	<p>(u) perform such other functions as may be prescribed.</p>	
	<p>(3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under this Act, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—</p> <p>(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;</p> <p>(ii) summoning and enforcing the attendance of persons and examining them on oath;</p> <p>(iii) inspection of any books, registers and other documents of any person at any place;</p> <p>(iv) issuing of commissions for the examination of witnesses or documents.</p>	
	<p>197. (1) The Board may, for the efficient discharge of its functions, constitute such Advisory Committees as it may deem fit, consisting of a Chairperson and such other members as may be specified by regulations, including—</p> <p>(a) Standards Advisory Committee;</p> <p>(b) Financial Advisory Committee;</p> <p>(c) Insolvency Professional Advisory Committee;</p> <p>(d) Information Utilities Advisory Committee;</p> <p>(e) such other committees as may be specified by regulations;</p>	<p>Constitution of advisory committee, executive committee or other committee.</p>
	<p>(2) For the efficient discharge of its functions, the Board may constitute executive committees or such other committees, as may be specified by regulations.</p>	

	<p>198. Notwithstanding anything contained in this Act, where the Board does not perform any act within the period specified in this Act, the relevant Adjudicating Authority may, for reasons to be recorded in writing, condone the delay.</p>	<p>Condonation of delay.</p>
	<p>CHAPTER III</p> <p>INSOLVENCY PROFESSIONAL AGENCIES</p>	
	<p>199. Save as otherwise provided in this Act, no person shall carry on its business as insolvency professional agencies under this Act and enrol insolvency professionals as its members except under and in accordance with a certificate of registration issued in this behalf by the Board.</p>	<p>No person to function as insolvency professional agency without valid certificate of registration.</p>
	<p>200. The Board shall have regard to the following principles while registering the insolvency professional agencies under this Act, namely:–</p> <ul style="list-style-type: none"> (a) to promote the professional development of and regulation of insolvency professionals; (b) to promote the services of competent insolvency professionals to cater to the needs of debtors, creditors and such other persons as may be specified; (c) to promote good professional and ethical conduct amongst insolvency professionals; (d) to protect the interests of debtors, creditors and such other persons as may be specified; (e) to promote the growth of insolvency professional agencies for the effective resolution of insolvency and bankruptcy processes under this Act. 	<p>Principles governing registration of insolvency professional agency.</p>
	<p>201. (1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as</p>	<p>Registration of insolvency professional</p>

	<p>may be specified by regulations:</p> <p><i>Provided</i> that every application received by the Board shall be acknowledged within seven days of its receipt.</p>	agency.
	<p>(2) On receipt of the application under sub-section (1), the Board may, on being satisfied that the application conforms with all requirements specified under sub-section (1), grant a certificate of registration to the applicant or else, reject, by order, such application:</p> <p><i>Provided</i> that no order rejecting the application shall be made without giving an opportunity of being heard to the applicant:</p> <p><i>Provided</i> further that every order so made shall be communicated to the applicant within a period of fifteen days.</p>	
	<p>(3) The Board may issue a certificate of registration to the applicant in such form and manner and subject to such terms and conditions as may be specified.</p>	
	<p>(4) The Board may renew the certificate of registration from time to time in such manner and on payment of such fee as may be specified.</p>	
	<p>(5) The Board may, by order, suspend or cancel the certificate of registration granted to an insolvency professional agency on any of the following grounds, namely:—</p> <p>(a) that it has obtained registration by making a false statement or misrepresentation or by any other unlawful means;</p> <p>(b) that it has failed to comply with the requirements of the regulations made by the Board or bye-laws made by the insolvency professional agency;</p> <p>(c) that it has contravened any of the provisions of the Act or the rules or the regulations made thereunder;</p>	

	<p>(d) on any other ground as may be specified by regulations:</p> <p><i>Provided</i> that no order shall be made under this sub-section unless the insolvency professional agency concerned has been given a reasonable opportunity of being heard:</p> <p><i>Provided</i> further that no such order shall be passed by any member except whole-time members of the Board.</p>	
	<p>202. Any insolvency professional agency which is aggrieved by the order of the Board made under section 201 may prefer an appeal to the National Company Law Appellate Tribunal in such form, within such period, and in such manner, as may be specified by regulations.</p>	<p>Appeal to National Company Law Appellate Tribunal.</p>
	<p>203. (1) The Board may, for the purposes of ensuring that every insolvency professional agency takes into account the objectives sought to be achieved under this Act, make regulations to specify–</p> <p>(a) the setting up of a governing board of an insolvency professional agency;</p> <p>(b) the minimum number of independent members to be on the governing board of the insolvency professional agency; and</p> <p>(c) the number of the insolvency professionals being its members who shall be on the governing board of the insolvency professional agency.</p>	<p>Governing Board of insolvency professional agency.</p>
	<p>204. (1) An insolvency professional agency shall perform the following functions, namely:–</p> <p>(a) grant membership to persons who fulfil all requirements set out in its bye-laws on payment of membership fee;</p> <p>(b) lay down standards of professional conduct for its members;</p> <p>(c) monitor the performance of its members;</p> <p>(d) safeguard the rights, privileges and interests of insolvency professionals who</p>	<p>Functions of insolvency professional agencies.</p>

	<p>are its members;</p> <p>(e) suspend or cancel the membership of insolvency professionals who are its members on the grounds set out in its bye-laws;</p> <p>(f) redress the grievances of consumers against insolvency professionals who are its members; and</p> <p>(g) publish information about its functions, list of its members, performance of its members and such other information as may be specified by regulations.</p>	
	<p>205. (1) Subject to the provisions of this Act and any rules or regulations made thereunder and after obtaining the approval of the Board, every insolvency professional agency shall make bye-laws to provide for –</p> <p>(a) the minimum standards of professional competence for its members;</p> <p>(b) the standards for professional and ethical conduct of its members;</p> <p>(c) requirements for enrolment of persons as its members which shall be non-discriminatory.</p> <p><i>Explanation.</i>– For the purposes of this clause, the term "non-discriminatory " means lack of discrimination on the grounds of religion, caste, gender or place of birth and such other grounds as may be specified;</p> <p>(d) the manner of granting membership to persons who fulfil its requirement;</p> <p>(e) setting up of a governing board for its internal governance and management in accordance with the regulations specified by the Board;</p> <p>(f) the information required to be submitted</p>	<p>Bye-laws of insolvency professional agencies.</p>

	<p>by its members including the form and the time for submitting such information;</p> <p>(g) <i>the</i> specific classes of persons to whom services shall be provided at concessional rates or for no remuneration by its members;</p> <p>(h) the grounds on which penalties may be levied upon its members and the manner thereof;</p> <p>(i) a fair and transparent mechanism for redressal of grievances against its members;</p> <p>(j) the grounds under which the insolvency professionals may be expelled from its membership;</p> <p>(k) the quantum of fee and the manner of collecting fee for inducting persons as its members;</p> <p>(l) the curriculum for enrolment of persons as its members which shall not be less than the curriculum specified by the Board;</p> <p>(m) the manner of conducting examination of the curriculum specified by the Board for enrolment of insolvency professionals;</p> <p>(n) the manner of monitoring and reviewing the working of insolvency professionals who are its members;</p> <p>(o) the duties and other activities to be performed by its members;</p> <p>(p) the amount of registration bond and performance security to be furnished by an insolvency professional for the performance of his duties, the form and manner in which such registration bond and performance security shall be furnished to the insolvency professional agency;</p> <p>(q) the manner of conducting disciplinary</p>	
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	<p>proceedings against its members and imposing penalties;</p> <p>(r) the manner of utilising the amount received as registration bond or performance security in case where penalty imposed against any insolvency professional remains unpaid.</p>	
	<p>206. (1) On the commencement of an insolvency resolution process, where an insolvency professional is appointed to perform any of the functions under this Act –</p> <p>(a) the insolvency professional agency where such insolvency professional is registered as a member, shall post a performance bond with the Board in the form and manner as may be specified by the Board; and</p> <p>(b) the insolvency professional shall deposit with the insolvency professional agency a performance security of an amount and in a manner as specified by the Board.</p> <p>(2) The performance bond posted under clause (a) of sub-section (1) shall provide for -</p> <p>(a) the concerned insolvency professional agency to act as a surety for the obligations of the insolvency professional and to be jointly and severally liable for losses in relation to any person whose interests are prejudicially affected by any act of fraud or gross misconduct of the insolvency professional; and</p> <p>(b) the payment of claims in respect of losses mentioned in clause (a), which shall be equal in amount, to at least the value of the assets of the corporate debtor or the debtor as on the insolvency commencement date or the insolvency commencement date of the debtor, as the case may be.</p> <p>(3) The performance security deposited with the insolvency professional agency under clause (b) of</p>	<p>Performance bond to be posted by insolvency professional agency.</p>

	<p>sub-section (1) shall be used in discharging any obligations imposed on the insolvency professionals under this Act.</p> <p>(4) Subject to any regulations specified by the Board under this section, each insolvency professional agency shall by its bye-laws specify the means for determining the liability of insolvency professionals who are members of such insolvency professional agency in respect of any performance bond under this section.</p>	
	<p>CHAPTER IV</p> <p>INSOLVENCY PROFESSIONALS</p>	
	<p>207. (1) No person shall render his services as insolvency professional under this Act without being enrolled as a member of an insolvency professional agency.</p>	<p>Enrolment and registration of insolvency professionals.</p>
	<p>(2) Every insolvency professional shall, after obtaining the membership of any insolvency professional agency, register themselves with the Board within such time, in such manner and on payment of such fee, as may be specified by regulations.</p>	
	<p>208. (1) Where any insolvency or bankruptcy resolution process has been initiated, it shall be the function of an insolvency professional to take such actions as may be necessary, in the following matters —</p> <p>(a) a fresh start order process under Chapter II of Part III;</p> <p>(b) individual insolvency resolution process under Chapter III of Part III</p> <p>(c) corporate insolvency resolution process under Chapter II of Part II.</p> <p>(d) individual bankruptcy process under Chapter IV of Part III; and</p> <p>(e) liquidation of a corporate debtor firm under Chapter III of Part II.</p>	<p>Functions and obligations of insolvency professionals.</p>

	<p>(2) Every insolvency professional shall have the following obligations, namely:–</p> <p>(a) to take reasonable care and diligence while performing his duties;</p> <p>(b) to comply with all requirements and terms and conditions specified in the bye-laws of the insolvency professional agency of which he is a member;</p> <p>(c) to allow the insolvency professional agency to inspect his records;</p> <p>(d) to furnish registration bond and performance security to the insolvency professional agency before providing any service under this Act; and</p> <p>(e) to submit a copy of the records of every proceeding before the Adjudicating Authority to the Board as well as to the insolvency professional agency of which he is a member.</p>	
	<p>CHAPTER V</p> <p>INFORMATION UTILITIES</p>	
	<p>209. Save as otherwise provided in this Act, no information utility shall carry on its business under this Act except under and in accordance with a certificate of registration issued in that behalf by the Board.</p>	<p>No person to function as information utility without valid certificate of registration.</p>
	<p>210. (1) Every application for registration shall be made to the Board in such form and manner, containing such particulars, and accompanied by such fee, as may be specified by regulations:</p> <p><i>Provided</i> that every application received by the Board shall be acknowledged within seven days of its receipt.</p>	<p>Registration of information utility.</p>
	<p>(2) On receipt of the application under sub-section (1), the Board may, on being satisfied that the</p>	

	<p>application conforms with all requirements specified under sub-section (1), grant a certificate of registration to the applicant or else, reject, by order, such application:</p> <p><i>Provided</i> that no order rejecting the application shall be made without giving an opportunity of being heard to the applicant.</p>	
	<p>(3) The Board may issue a certificate of registration to the applicant in such form and manner and subject to such terms and conditions as may be specified.</p>	
	<p>(4) The Board may renew the certificate of registration from time to time in such manner and on payment of such fee as may be specified by regulations.</p>	
	<p>(5) The Board may, by order, suspend or cancel the certificate of registration granted to an information utility on any of the following grounds, namely:–</p> <p>(a) that it has obtained registration by making a false statement or misrepresentation or any other unlawful means;</p> <p>(b) that it has failed to comply with the requirements of the regulations made by the Board;</p> <p>(c) that it has contravened any of the provisions of the Act or the rules or the regulations made thereunder;</p> <p>(d) on any other ground as may be specified by regulations:</p> <p><i>Provided</i> that no order shall be made under this sub-section unless the information utility concerned has been given a reasonable opportunity of being heard:</p> <p><i>Provided</i> further that no such order shall be passed by any member except whole-time members of the Board.</p>	
	<p>211. Any information utility which is aggrieved by the order of the Board made under section 209 may prefer an appeal to the National Company Law Appellate Tribunal in such form, within such period, and in such manner, as may be</p>	<p>Appeal to National Company Law Appellate Tribunal.</p>

	specified by regulations.	
	212. The Board may, for ensuring that an information utility takes into account the objectives sought to be achieved under this Act, require every information utility to set up a governing board, with such number of independent members, as may be specified by regulations.	Governing Board of information utility.
	213. (1) An information utility shall provide core services to any person if such person complies with the terms and conditions as may be specified by regulations.	Functions of information utilities.
	(2) An information utility may provide services other than core services to any person.	
	214. (1) While providing core services to any person, every information utility shall— <ul style="list-style-type: none"> (a) create and store financial information in a universally accessible format; (b) accept electronic submissions of financial information from persons who are under obligations to submit financial information under sub-section (2) of section 215, in such form and manner as may be specified by regulations; (c) accept, in specified form and manner, electronic submissions of financial information from persons who intend to submit such information; (d) meet such minimum service quality standards as may be specified by regulations; (e) get the information received from various persons authenticated by all concerned parties before storing such information; (f) provide access to the financial information stored by it to any person who intends to access such information in such manner as 	Obligations of information utility.

	<p>may be specified by regulations;</p> <p>(g) publish such statistical information as may be specified by regulations.</p>	
	<p>215. (1) Any person who intends to submit information to the information utility or access the information from the information utility shall pay such fee and submit information in such form and manner as may be specified by regulations.</p>	<p>Procedure for submission etc. of financial information.</p>
	<p>(2) A financial creditor or, as the case may be, an operational creditor shall submit financial information and information relating to secured assets in such form and manner as may be specified by regulations.</p>	
	<p>216. (1) A person who submits financial information to an information utility shall have the following rights, namely: –</p> <p>(a) to correct errors or update or modify any financial information so submitted in a manner and within such time as may be specified;</p> <p>(b) to demand the information utility to remove from its records the information so submitted, with the concurrence of all counterparties to any contracts or agreements, in a manner and within such time as may be specified.</p>	<p>Rights and obligations of persons submitting financial information.</p>
	<p>(2) A person who submits financial information to an information utility shall not provide such information to any other person, except to such extent, under such circumstances, and in such manner, as may be specified.</p>	
	<p style="text-align: center;">CHAPTER VI</p> <p style="text-align: center;">INSPECTION AND INVESTIGATION</p>	
	<p>217. Any person aggrieved by the functioning of an insolvency professional agency or insolvency professional or an information utility may file a</p>	<p>Complaints against insolvency professional agency</p>

	<p>complaint to the Board in such form and in such manner as may be specified by regulations.</p>	<p>or its member or information utility.</p>
	<p>218. (1) Where the Board, on receipt of a complaint under section 217 or suo moto, has reasonable grounds to believe that any insolvency professional agency or insolvency professional or an information utility has contravened any of the provisions of the Act or the rules or regulations made or directions issued by the Board thereunder, it may, at any time by an order in writing, direct any person or persons authorized in this behalf (hereinafter referred to as the Investigating Authority in this Chapter) to conduct an inspection or investigation of the insolvency professional agency or insolvency professional or an information utility</p> <p>(2) The inspection or investigation carried out under subsection (1) of this section, shall be conducted within such time and in such manner as may be specified by regulations.</p> <p>(3) The Investigating Authority may, in the course of such inspection or investigation, require any other person who is likely to have any relevant document, record or information to furnish the same, and such person shall be bound to furnish such document, record or information:</p> <p><i>Provided</i> that the Investigating Authority shall provide detailed reasons to such person before requiring him to furnish such document, record or information.</p> <p>(4) The Investigating Authority may, in the course of its inspection or investigation, enter any building or place where they may have reasons to believe that any such document, record or information relating to the subject-matter of the inquiry may be found and may seize any such document, record or information or take extracts or copies therefrom, subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, insofar as they may be applicable.</p>	<p>Investigation of insolvency professional agency or its member or information utility.</p>

	<p>(5) The Investigating Authority shall keep in its custody the books, registers, other documents and records seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the concerned person from whose custody or power they were seized:</p> <p><i>Provided</i> that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.</p> <p>(6) A detailed report of inspection or investigation shall be submitted to the Board by the Investigating Authority.</p>	
	<p>219. The Board may, upon completion of an inspection or investigation under section 218, issue a show cause notice to such insolvency professional agency or insolvency professional or information utility, and carry out inspection of such insolvency professional agency or insolvency professional or information utility in such manner, giving such time for giving reply, as may be specified by regulations.</p>	<p>Issuing of show cause notice to insolvency professional agency or its member or information utility.</p>
	<p>220. (1) The Board shall constitute a disciplinary committee to consider the reports of the investigating Authority submitted under sub-section (6) of section 218:</p> <p><i>Provided</i> that the members of the disciplinary committee shall consist of whole-time members of the Board only.</p>	<p>Appointment of disciplinary committee</p>
	<p>(2) On the examination of the report of the Investigating Authority, if the disciplinary committee is satisfied that sufficient cause exists, it may impose monetary penalty as specified in sub-section (3) or suspend or cancel the registration of the insolvency professional or, suspend or cancel the registration of insolvency professional agency or information utility as the case may be.</p>	

	<p>(3) The disciplinary committee may impose monetary penalty in the following manner, namely:–</p> <p>(a) where any insolvency professional agency or insolvency professional or an information utility has contravened any provision of this Act or rules or regulations made thereunder, the maximum monetary penalty shall be the higher of –</p> <p>(i) three times the amount of the loss caused, or likely to have been caused, to persons concerned on account of such contravention; or</p> <p>(ii) three times the amount of the unlawful gain made on account of such contravention:</p> <p><i>Provided</i> that where such loss or unlawful gain is not quantifiable, the total amount of the monetary penalty imposed shall not exceed more than one crore rupees.</p>	
	<p>(4) Notwithstanding anything contained in sub-section (3), the Board may direct any person who has made unlawful gain or averted loss by indulging in any activity in contravention of this Act, or the rules or regulations made thereunder, to disgorge an amount equivalent to such unlawful gain or aversion of loss.</p>	
	<p>(5) The Board may take such action as may be required to provide restitution to the person who suffered loss on account of any contravention from the amount so disgorged, if the person who suffered such loss is identifiable and the loss so suffered is directly attributable to such person.</p>	
	<p>(6) The Board may make regulations to specify–</p> <p>(a) the procedure for claiming restitution under sub-section (5);</p> <p>(b) the period within which such restitution</p>	

	<p>may be claimed; and</p> <p>(c) the manner in which restitution of amount may be made.</p>	
	<p>CHAPTER VII</p> <p>FINANCE, ACCOUNTS AND AUDIT</p>	
	<p>221. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.</p>	<p>Grants by Central Government</p>
	<p>222. (1) There shall be constituted a Fund to be called the Fund of the Insolvency and Bankruptcy Board and there shall be credited thereto –</p> <p>(a) all grants, fees and charges received by the Board under this Act;</p> <p>(b) all sums received by the Board from such other sources as may be decided upon by the Central Government;</p> <p>(c) such other funds as may be specified by the Board or prescribed by the Central Government.</p>	<p>Board’s Fund</p>
	<p>(2) The Fund shall be applied for meeting –</p> <p>(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;</p> <p>(b) the expenses of the Board in the discharge of its functions under section 196;</p> <p>(c) the expenses on objects and for purposes authorised by this Act.</p> <p>(d) such other purposes as may be prescribed.</p>	
	<p>223. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in</p>	<p>Accounts and audit</p>

	consultation with the Comptroller and Auditor-General of India.	
	(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.	
	(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.	
	(4) The accounts of the Board as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.	
	224. (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:	Power of Central Government to issue directions
	<i>Provided</i> that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.	
	(2) The decision of the Central Government as to whether a question is one of policy or not shall be	

	final.	
	<p>225. (1) If at any time the Central Government is of opinion –</p> <p>(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or</p> <p>(b) that the Board has persistently not complied with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such non-compliance the financial position of the Board or the administration of the Board has deteriorated; or</p> <p>(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.</p>	Power of Central Government to supersede Board.
	<p>(2) Upon the publication of a notification under sub-section (1) superseding the Board, - (a) all the members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and (c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.</p>	
	<p>(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may</p>	

	<p>reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for appointment:</p> <p><i>Provided</i> that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.</p>	
	<p>(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.</p>	
	<p>226. (1) The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the Central Government.</p>	Budget.
	<p>227. (1) The Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.</p>	Annual Report.
	<p>(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.</p>	
	<p>228. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 217) as it may deem necessary.</p>	Delegation.
	<p>229. No civil court shall have jurisdiction in respect of any matter which the Board is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the</p>	Bar of jurisdiction.

	Board by, or under, this Act.	
	PART V MISCELLENEOUS	
	230. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.	Power to make rules.
	(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—	
	(a) [...]; (b) [...];	
	231. (1) The Board may, by notification, make regulations consistent with this Act and the rules made thereunder, to carry out the purposes of this Act.	Power to make regulations.
	(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 times and places of meetings of the Board and the procedure to be followed at meetings including quorum necessary for the transaction of business; (b) the terms and other conditions of service of officers and other members of the Board.	
	232. Every rule, every regulation and every bye-law made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or bye-law or both Houses agree that the rule, regulation or	Rules, regulations and bye-laws to be laid before Parliament.

	<p>bye-law should not be made, the rule, regulation or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation or bye-law.</p>	
	<p>233. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:</p> <p><i>Provided</i> that no order shall be made under this section after the expiry of five years from the commencement of this Act.</p> <p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	<p>Power to remove difficulties.</p>
	<p>234. (1) The Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920 are hereby repealed.</p> <p>(2) Notwithstanding the repeal under sub-sections (1) -</p> <p>(i) all proceedings pending under and relating to the Presidency Towns Insolvency Act 1909, and the Provincial Insolvency Act 1920 immediately before the commencement of this Act shall continue to be governed under the aforementioned Acts and be heard and disposed of by the concerned courts or tribunals, as if the aforementioned Acts have not been repealed;</p> <p>(ii) any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force</p>	<p>Repeal of certain enactments and savings.</p>

	<p>at the commencement of this Act, continue to be in force, and shall have effect as if the aforementioned Acts have not been repealed;</p> <p>(iii) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall be deemed valid;</p> <p>(iv) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactments;</p> <p>(v) any prosecution instituted under the repealed enactments and pending immediately before the commencement of this Act before any court or tribunal shall, subject to the provisions of this Act, continue to be heard and disposed of by the concerned court or tribunal;</p> <p>(vi) any person appointed to any office under or by virtue of any repealed enactment shall continue to hold such office until such time as may be prescribed; and</p> <p>(vii) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored.</p> <p>(3) The mention of particular matters in sub-section (2)</p>	
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	shall not be held to prejudice the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the repealed enactments or provisions of the enactments mentioned in the Schedule.	
	235. The enactments specified in the schedule to this Act shall be amended in the manner provided therein.	Amendments to certain enactments.
	236. Notwithstanding anything in the Code of Criminal Procedure, 1973, every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.	Offences to be non-cognizable.
	237. Notwithstanding anything in the Code of Criminal Procedure, 1973, offences under Part II and offences by the Resolution Professional under Part III of this Act shall be triable only by the Special Court established under Chapter XXVIII of the Companies Act, 2013.	Special Court.
	238. (1) Until the Board is constituted, the powers and functions of the Board, including its power to make regulations, shall be exercised by the Central Government. (2) Without prejudice to the generality of the power under sub-section (1), the Central Government may by regulations provide for the following matters:- (a) recognition of persons, categories of professionals and persons having such qualifications and experience in the field of finance, law, management or insolvency as it deems necessary to authorise them act as insolvency professionals and insolvency professional agencies under this Act; (b) recognition of persons with technological, statistical, and data protection capability as it deems necessary to authorise them act as information utilities under this Act; and (c) conduct of the corporate insolvency resolution process, insolvency resolution process, liquidation process, fresh start process and bankruptcy process under this	Transitional provisions.

	Act.	
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SCHEDULE

(See section 235)

Part I

AMENDMENTS TO THE COMPANIES ACT, 2013

1. The Companies Act, 2013 shall be amended as follows.
2. For sub-section (23) of section 2, the following sub-section shall be substituted, namely: -
“(23) “Company Liquidator”, means a person appointed by the Tribunal as the Company Liquidator in accordance with the provisions of section 275 of this Act for the winding up of a company under this Act.”
3. After sub-section (94) of section 2, the following sub-section shall be inserted, namely:-
“(94A) “winding up” means winding up under this Act and/or liquidation under the Insolvency and Bankruptcy Code, 2015, as applicable.”
4. In sub-section (9) of section 8, for the words “the Rehabilitation and Insolvency Fund”, the words “Insolvency Fund” shall be substituted.
5. In sub-section (8) of section 66, for the words “the company is unable, within the meaning of sub-section (2) of section 271, to pay the amount of his debt or claim,” the words “a default, within the meaning of Section 6 of the Insolvency and Bankruptcy Code, 2015, has occurred on his debt or claim,” shall be substituted.
6. In sections 77 and 230, after the words “the liquidator”, wherever they occur, the words “under this Act or the Insolvency and Bankruptcy Code, 2015, as the case may be,” shall be inserted.
7. In clause (f) of sub-section (3) of section 117, for the words “section 304”, the words “section 56 of the Insolvency and Bankruptcy Code, 2015 ” shall be substituted.
8. In sub-section (2) of section 224, after the words “wound up under this Act”, the words “or the Insolvency and Bankruptcy Code, 2015” shall be inserted.
9. For clause (e) of sub-section (1) of section 249, the following clause shall be inserted, namely:-
“(e) is being wound up under Chapter XX of this Act or the Insolvency and Bankruptcy Code, 2015.”
10. Sections 253 to 268 shall be omitted.
11. For section 269, the following section shall be substituted, namely: -
“269. (1) There shall be formed a Fund to be called the Insolvency Fund for the purposes of insolvency resolution and liquidation of companies.
(2) There shall be credited to the Fund—

- (a) the grants made by the Central Government for the purposes of the Fund;
 - (b) the amount deposited by the companies as contribution to the Fund;
 - (c) the amount given to the Fund from any other source; and
 - (d) the income from investment of the amount in the Fund.
- (3) A company which has contributed any amount to the Fund shall, in the event of proceedings initiated in respect of such company under Chapter XX of this Act or the Insolvency and Bankruptcy Code, 2015, may make an application to the Tribunal for withdrawal of funds not exceeding the amount contributed by it, for making payments to workmen, protecting the assets of the company or meeting the incidental costs during proceedings.
- (4) The Fund shall be managed by an administrator to be appointed by the Central Government in such manner as may be prescribed.”
12. For section 270, the following section shall be substituted, namely: -
- “270. The provisions of this Act with respect to winding up shall apply to the winding up of a company by the Tribunal under this Act.”
13. For section 271, the following section shall be substituted, namely: -
- “271. A company may, on a petition under section 272, be wound up by the Tribunal,—
- (a) if the company has, by special resolution, resolved that the company be wound up by the Tribunal;
 - (b) if the company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality;
 - (c) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the company have been conducted in a fraudulent manner or the company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the company be wound up;
 - (d) if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or
 - (e) if the Tribunal is of the opinion that it is just and equitable that the company should be wound up.”
14. For section 272, the following section shall be substituted, namely:-

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- “272. (1) Subject to the provisions of this section, a petition to the Tribunal for the winding up of a company shall be presented by—
- (a) the company;
 - (b) any contributory or contributories;
 - (d) all or any of the persons specified in clauses (a) and (b) together;
 - (e) the Registrar;
 - (f) any person authorised by the Central Government in that behalf; or
 - (g) in a case falling under clause (c) of sub-section (1) of section 271, by the Central Government or a State Government.
- (2) A contributory shall be entitled to present a petition for the winding up of a company, notwithstanding that he may be the holder of fully paid-up shares, or that the company may have no assets at all or may have no surplus assets left for distribution among the shareholders after the satisfaction of its liabilities, and shares in respect of which he is a contributory or some of them were either originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months immediately before the commencement of the winding up or have devolved on him through the death of a former holder.
- (4) The Registrar shall be entitled to present a petition for winding up under sub-section (1) on any of the grounds specified in sub-section (1) of section 271, except on the grounds specified in clause (a) or clause (e) of that sub-section:
- Provided* that the Registrar shall obtain the previous sanction of the Central Government to the presentation of a petition:
- Provided* also that the Central Government shall not accord its sanction unless the company has been given a reasonable opportunity of making representations.
- (5) A petition presented by the company for winding up before the Tribunal shall be admitted only if accompanied by a statement of affairs in such form and in such manner as may be prescribed.
- (6) A copy of the petition made under this section shall also be filed with the Registrar and the Registrar shall, without prejudice to any other provisions, submit his views to the Tribunal within sixty days of receipt of such petition.”
15. For sub-section (2) of section 275, the following sub-section shall be substituted, namely:-
- “(2) The provisional liquidator or the Company Liquidator, as the case may, shall be appointed from amongst the insolvency professionals registered under the Insolvency and Bankruptcy Code, 2015.”
16. For section 280, the following section shall be substituted, namely:-

“280. The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of,—

(a) any suit or proceeding by or against the company;

(b) any claim made by or against the company, including claims by or against any of its branches in India;

(c) any application made under section 233;

(d) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the company, whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the company is made.”

17. Section 289 shall be omitted.

18. Sections 304 to 323 shall be omitted.

19. Section 325 shall be omitted.

20. For section 326, the following section shall be substituted, namely:-

“326. (1) In the winding up of a company under the terms of this Act the following debts shall be paid in priority to all other debts:

(a) workmen’s dues; and;

(b) where a secured creditor has realised a secured asset, so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen’s portion in his security, whichever is less, *pari passu* with the workmen’s dues:

Provided that in case of the winding up of a company, the sums referred to in explanation (3) (b) (i) and (ii) of this section, which are payable for a period of two years preceding the winding up order or such other period as may be prescribed, shall be paid in priority to all other debts (including debts due to secured creditors), within a period of thirty days of sale of assets and shall be subject to such charge over the security of secured creditors as may be prescribed.

(2) The debts payable under the proviso to sub-section (1) shall be paid in full before any payment is made to secured creditors and thereafter debts payable under that sub-section shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.

Explanation. – For the purposes of this section, and Section 327—

(a) “workmen”, in relation to a company, means the employees of the company, being workmen within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947;

(b) “workmen’s dues”, in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely:—

(i) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947;

(ii) all accrued holiday remuneration becoming payable to any workman or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;

(iii) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen’s Compensation Act, 1923, rights capable of being transferred to and vested in the workmen, all amount due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;

(iv) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company.

(c) “workmen’s portion”, in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen’s dues bears to the aggregate of the amount of workmen’s dues and the amount of the debts due to the secured creditors.

Illustration

The value of the security of a secured creditor of a company is Rs. 1,00,000. The total amount of the workmen’s dues is Rs. 1,00,000. The amount of the debts due from the company to its secured creditors is Rs. 3,00,000. The aggregate of the amount of workmen’s dues and the amount of debts due to secured creditors is Rs. 4,00,000. The workmen’s portion of the security is, therefore, one-fourth of the value of the security, that is Rs. 25,000.”

21. In clause (c) of sub-section (6) of section 327, the following clause shall be substituted, namely :-:

“(c) the expression “relevant date” means—

(i) in the case of a company being wound up by the Tribunal, the date of appointment or first appointment of a provisional liquidator, or if no such appointment was made, the date of the winding up order, unless, in either case, the company had commenced to be wound up voluntarily before that date under the Insolvency and Bankruptcy Code 2015

The following proviso shall be inserted at the end of section 327:

Provided that sections 326 and 327 shall not be applicable in the event of liquidation under the Insolvency and Bankruptcy Code 2015.”

22. For section 329, the following section shall be substituted, namely: -
- “329. Any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrance in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Tribunal under this Act shall be void against the Company Liquidator.”
23. For section 334, the following section shall be substituted, namely:-
- “334. In the case of a winding up by the Tribunal, any disposition of the property, including actionable claims, of the company, and any transfer of shares in the company or alteration in the status of its members, made after the commencement of the winding up, shall, unless the Tribunal otherwise orders, be void.”
24. In sub-section (1) of section 336, for the words
- (a) “, whether by the Tribunal or voluntarily, ”, the words “by the Tribunal under this Act”; and
- (b) “or which subsequently passes a resolution for voluntary winding up,”, the words “under this Act”, shall be inserted.
25. In section 337, for the words “or which subsequently passes a resolution for voluntary winding up,”, the words “under this Act”, shall be substituted.
26. Sub-sections (2), (3) and (4) of section 342 shall be omitted.
27. For sub-section (1) of section 343, the following sub-section shall be substituted, namely-
- “(1) The Company Liquidator may, with the sanction of the Tribunal, when the company is being wound up by the Tribunal
- (i) pay any class of creditors in full;
- (ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the company, or whereby the company may be rendered liable; or
- (iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.”
28. For sub-section (1) of section 347, the following sub-section shall be substituted, namely-

“(1) When the affairs of a company have been completely wound up and it is about to be dissolved, its books and papers and those of the Company Liquidator may be disposed of in such manner as the Tribunal directs.”

29. For sub-section (1) of section 347, the following sub-section shall be substituted, namely-

“(1) If the winding up of a company is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, duly audited, by a person qualified to act as auditor of the company, with respect to the proceedings in, and position of, the liquidation, with the Tribunal:

Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply.”

30. For section 357, the following section shall be substituted, namely:-

“357. The winding up of a company by the Tribunal under this Act shall be deemed to commence at the time of the presentation of the petition for the winding up.”

31. In section 370, after the words “obtained for the winding up of the company”, the words “in accordance with the provisions of the Insolvency and Bankruptcy Code, 2015” shall be inserted.

32. In section 372, after the words “the provisions of this Act”, the words “or the Insolvency and Bankruptcy Code, 2015, as applicable” shall be inserted.

33. In clause (b) of sub-section (3) of section 375, for the words “is unable to pay its debts”, the words “has defaulted on its debts, within the meaning of the Insolvency and Bankruptcy Code, 2015” shall be inserted.

34. Sub-section (4) of section 375 shall be omitted.

35. In sub-section (1) of section 377, after the words “winding up of companies by the Tribunal”, the words “, or the provisions of the Insolvency and Bankruptcy Code, 2015” shall be inserted.

36. For sub-section (4) of section 419, the following sub-section shall be substituted, namely: -

“(4) The Central Government shall by notification establish such number of benches of the Tribunal as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under Part II of the Insolvency and Bankruptcy Code, 2015:

Provided a bench of the Tribunal established under this sub-section shall have at least one judicial member.”

37. In sub-section (1) of section 424,

-
- (i) after the words, “other provisions of this Act”, the words “or the Insolvency and Bankruptcy Code, 2015” shall be inserted;
- (ii) after the words, “under this Act”, the words “or the Insolvency and Bankruptcy Code, 2015” shall be inserted.
38. In sub-section (1) of section 429,
- (i) for the words “relating to a sick company or winding up of any other company”, the words “under the Insolvency and Bankruptcy Code, 2015 or winding up of a company under this Act” shall be substituted;
- (ii) for the words “of such sick or other company”, the words “of the relevant legal person” shall be substituted.
39. For section 434, the following section shall be substituted, namely: -
- “434. (1) On such date as may be notified by the Central Government in this behalf,—
- (a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956, immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;
- (b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:
- Provided* that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and
- (c) all proceedings under the Companies Act, 1956, including proceedings relating to arbitration, compromise, arrangements the reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer:
- Provided* that only such proceedings relating to the winding up of companies shall be transferred to the Tribunal that are at a stage as may be prescribed by the Central Government.
- (2) The Central Government may make rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section.”
40. For sub-section (2) of section 468, the following section shall be substituted, namely -

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

- (i) as to the mode of proceedings to be held for winding up of a company by the Tribunal under this Act;
- (ii) for the holding of meetings of creditors and members in connection with proceedings under section 230;
- (iii) for giving effect to the provisions of this Act as to the reduction of the capital;
- (iv) generally for all applications to be made to the Tribunal under the provisions of this Act;
- (v) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;
- (vi) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;
- (vii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;
- (viii) the making of calls; and
- (ix) the fixing of a time within which debts and claims shall be proved.”

41. For sub-section (b) of Section III to Schedule V, the following sub-section shall be substituted, namely: -

“(b) where the company—

- (i) is a newly incorporated company, for a period of seven years from the date of its incorporation, or
- (ii) is a sick company, for whom a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction for a period of five years from the date of sanction of scheme of revival,
- (iii) is a company in relation to which a resolution plan has been approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2015 for a period of five years from the date of such approval, it may pay remuneration up to two times the amount permissible under Section II.”

Part II

AMENDMENT TO SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) REPEAL ACT, 2003

1. For sub-clause (b) of section 4, the following sub-clause shall be substituted, namely -

“(b) On such date as may be notified by the Central Government in this behalf, any appeal preferred to the Appellate Authority or any reference made or inquiry pending to or before the Board or any proceeding of whatever nature pending before the Appellate Authority or the Board under the Sick Industrial Companies (Special Provisions) Act, 1985 shall stand abated:

Provided that a company in respect of which such appeal or reference or inquiry stands abated under this clause may make reference to the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2015 within one hundred and eighty days from the commencement of the Insolvency and Bankruptcy Code, 2015 in accordance with the provisions of the Insolvency and Bankruptcy Code, 2015:

Provided further that no fees shall be payable for making such reference under Insolvency and Bankruptcy Code, 2015 by a company whose appeal or reference or inquiry stands abated under this clause.”

Part III

AMENDMENT TO THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

1. Clause (c) of section 64 of the Limited Liability Partnerships Act, 2008 shall be omitted.

Part IV

AMENDMENT TO THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002

1. In sub-section (9) of Section 13, the words “Subject to the provisions of the Insolvency and Bankruptcy Code 2015” shall precede the words “In the case of financing of”.

Part V

AMENDMENT TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

1. In the long title, for the words “debts due to banks and financial institutions and for matters connected therewith or incidental thereto” the following words shall be substituted, namely:-

“debts due to banks and financial institutions, matters related to insolvency resolution and bankruptcy of individuals and partnership firms and for matters connected therewith or incidental thereto”

2. In section 1,

(a) in sub-section (1), for the words “Due to Banks and Financial Institutions Act ” the following words shall be substituted, namely:-

“and Bankruptcy Act.”

;

(b) in sub-section (4), for the words “ The provision of this Act”, the words “Save as otherwise provided, the provisions of this Act”, shall be substituted.

3. In section 3, after sub-section (1), the following sub-section shall be inserted, namely :-

“(1A) The Central Government shall by notification establish such number of Debts Recovery Tribunals and its benches as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under the Insolvency and Bankruptcy Code, 2015”.

4. In section 8, after sub-section (1), the following section shall be inserted, namely :-

“(1A) The Central Government shall establish such number of Debt Recovery Appellate Tribunals to exercise jurisdiction, powers and authority conferred on the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2015”.

5. In section 17, -

(i) after sub-section (1), the following sub-section shall be inserted, namely :-

“(1A) (a) Without prejudice to sub-section (1), the Tribunal shall exercise on and from such date, as the Central Government may notify, the jurisdiction, powers and authority to entertain and decide applications under Part III of Insolvency and Bankruptcy Code, 2015.

(b) The Tribunal referred to in clause (a) of this sub-section may have circuit sittings in all district headquarters.”

(ii) after sub-section (2), the following sub-section shall be inserted, namely :-

“(2A) Without prejudice to sub-section (2), the Appellate Tribunal shall exercise on and from such date as the Central Government may notify, the jurisdiction, powers and authority to

entertain appeals against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2015.”

6. After section 19, the following section shall be inserted –

“19A. The applications made to Tribunal exercising power of the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2015 shall be dealt with in the manner as provided under that Code”.

Part VI

AMENDMENT TO THE INDIAN PARTNERSHIP ACT, 1932

1. Clause (a) of section 41 shall be omitted.