

FAQs
Topic- Business Insolvency

QUALITY OF REGULATIONS FOR JUDICIAL INSOLVENCY PROCEEDINGS

(A) Pre-Commencement and Commencement Standards in Liquidation and Reorganization

B-Ready assessment area	Relevant Provisions	Links
<p>Obligations of the Company's Management during Pre-Insolvency-</p> <p>Obligations of the management of a debtor company to take reasonable steps to avoid insolvency when possible and minimize its extent if unavoidable</p>	<p>Section 43, 45, 49, 50 and 66, The Insolvency and Bankruptcy Code, 2016; Section 134 and 166, Companies Act, 2013. Directors must ensure accurate financial reporting, risk disclosure, and asset protection under Section 134 of Companies Act, 2013, while acting in good faith with diligence and integrity under Section 166 of the Act. Also Sec 66 of IB code provides for liability on directors: (a) before insolvency commencement date, such director or partner knew or ought to have known that there was no reasonable prospect of avoiding commencement of corporate insolvency resolution process in respect of such corporate debtor; and (b) such director or partner did not exercise due diligence in minimizing potential loss to creditors of corporate debtor Also, Sec 43, 45, 49, and 50 of IB Code provides for a look back period for potential claw backs.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://www.indiacode.nic.in/bitstream/123456789/2114/5/A2013-18.pdf</p>
<p>Out-of-Court Restructuring Mechanisms-</p> <p>Absence of any impediments to mechanisms allowing to resolve insolvency outside formal judicial proceedings</p>	<p>Reserve Bank of India Framework for Compromise Settlements and Technical Write-offs, 2023 ; Reserve Bank of India (Commercial Banks – Resolution of Stressed Assets) Directions, 2025. A contractually based Out-of-Court Workout (OCW) to restructure company's debt is recognized resolution mechanism under RBI's framework of resolution of stressed assets. Said RBI Circular have provisions under 'Chapter VI – Special Cases of Restructuring, Compromise Settlements and Technical Write-offs' provide for Compromise Settlements and Technical Write-offs, with the objective of maximizing the possible recovery from distressed borrower at minimum expense, in best interest of bank. Further, creditors exercise option of one-time-settlements with borrowers. Sale process under SARFAESI Act presents option to creditor to sell secured assets & secure recovery.</p>	<p>https://rbidocs.rbi.org.in/rdocs/notification/PDFs/165MD.pdf</p> <p>https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=12513</p>
<p>Commencement of Formal Reorganization Proceedings</p> <p>- Filing for reorganization by debtors</p>	<p>Section 10, The Insolvency and Bankruptcy Code, 2016 ; Section 230, Companies Act, 2013. CD can initiate CIRP for reorganisation under section 10 of IBC. In addition, provisions for compromise and arrangement also exist under Section 230 of Companies Act, 2013.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://www.indiacode.nic.in/bitstream/123456789/2114/5/A2013-18.pdf</p>

FAQs
Topic- Business Insolvency

B-Ready assessment area	Relevant Provisions	Links
<p>Commencement of Formal Reorganization Proceedings - Filing for reorganization by creditors</p>	<p>Section 7 and 9, The Insolvency and Bankruptcy Code, 2016. An individual creditor, whether financial or operational can initiate CIRP for reorganisation of the CD under sections 7 or 9 of the IBC.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Basis for Commencement of Formal Insolvency Proceedings- Existence of the liquidity test as a standard to initiate insolvency proceedings</p>	<p>Section 4, The Insolvency and Bankruptcy Code, 2016. The IBC allows initiation of insolvency proceedings upon default of a threshold debt amount by a corporate debtor. The choice of a 'default test' over a 'balance sheet test' was recommended by the Bankruptcy Law Reforms Committee (BLRC), which forms the basis of the Code. The BLRC noted that balance sheet tests depend on accounting quality, which varies widely in India, making them unreliable. To enable early resolution and preserve enterprise value, the Code triggers insolvency at the first default, rather than waiting for liabilities to exceed assets, motivating stakeholders to resolve rather than liquidate.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>

FAQs

Topic- Business Insolvency

(B) Post-commencement Standards in Liquidation and Reorganization

B-Ready assessment area	Relevant Provisions	Links
<p>Creditors Notification Requiring to Submit Claims- Existence of safeguards for creditors to ensure that the insolvency administrator provides notice of the reasons for decisions upon the admission or rejection of claims during liquidation proceedings</p>	<p>Section 15, The Insolvency and Bankruptcy Code 2016; Regulation 6, 6A, IBBI (Insolvency Resolution Process For Corporate Persons), 2016 (CIRP Regulations). The IBC requires the Resolution Professional to issue a Public Announcement, inviting all potential creditors to file/ submit their claims to the RP along with proof of amount and basis of claim. Further, the RP shall send a communication along with a copy of public announcement, to all the creditors as per the last available books of accounts of the corporate debtor through post or electronic means wherever the information for communication is available.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf; https://icairvo.in/documents/CI-RP%20Regulations%202016.pdf ;</p> <p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf; https://icairvo.in/documents/CI-RP%20Regulations%202016.pdf</p>
<p>How the Reorganization Plan is Voted - Creditors are separated into classes</p>	<p>Section 21, 24(6) and 30(4), The Insolvency and Bankruptcy Code, 2016. Creditors entitled to vote are divided into classes based on similarity of interests and their voting rights are proportional to the value of their respective claims.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>How the Reorganization Plan is Voted - Each class votes separately</p>	<p>Section 21, 24(6) and 30(4), The Insolvency and Bankruptcy Code, 2016. Each class of creditors like real estate allottees and debenture holders vote separately through their Authorised Representatives.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>How the Reorganization Plan is Voted - Equal treatment of members of the same class</p>	<p>Section 24(6) and 30(4), The Insolvency and Bankruptcy Code, 2016. The provisions has been mentioned in section 24(6) and 30(4) which states that Each creditor shall vote in accordance with the voting share assigned to him based on the financial debts owed to such creditor. Further section 30 (4) provides that Committee of Creditors, while approving a resolution plan, to consider the proposed distribution in line with the priority of payments specified in Section 53. Section 53 establishes a statutory waterfall mechanism, classifying stakeholders into priority tiers such as insolvency resolution process costs, secured creditors and workmen's dues, unsecured financial creditors, government dues, and other creditors, ensuring equitable and statutory distribution of proceeds.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Means of Voting on the Reorganization Plan- Existence of a comprehensive framework allowing creditors to vote the reorganization plan electronically</p>	<p>Regulation 21(4)(a) and 26, IBBI (Insolvency Resolution for Corporate Persons) Regulations, 2016. The resolution professional shall provide each member of the committee of creditors the means to exercise its vote by either electronic means or through electronic voting system.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://icairvo.in/documents/CIRP%20Regulations%202016.pdf</p>

FAQs
Topic- Business Insolvency

B-Ready assessment area	Relevant Provisions	Links
<p>Protection of Dissenting Creditors in Reorganization- Existence of a comprehensive framework for reorganization that includes key features on the protection of dissenting creditors by assuring that they would obtain under the reorganization plan at least as much as they would obtain in liquidation</p>	<p>Section 30(2)(b), The Insolvency and Bankruptcy Code, 2016. In the Indian Jurisdiction, Creditors are divided into two classes: Financial Creditors (FC) and Operational Creditors (OC) Section 30(2)(b) protects dissenting operational creditors and Financial creditors by ensuring that they are paid an amount not less than what they would receive in the event of liquidation of corporate debtor. Further, this section provides a certain minimum pay-out to OCs, which shall not be less than (a) what they would receive in the event of a liquidation, or (ii) what they would receive if amount to be distributed under resolution plan is distributed in accordance with liquidation waterfall.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Conversion from Reorganization to Liquidation- Existence of a legal avenue allowing the conversion of unsuccessful reorganization proceedings into liquidation proceedings, granting the insolvent company the opportunity to have an efficient exit from the market</p>	<p>Section 33, The Insolvency and Bankruptcy Code, 2016. As per Section 33 of IBC, Committee of Creditors (CoC) may decide to liquidate the CD anytime during CIRP. Further, if a resolution plan is not received or the resolution plan is rejected by CoC or Adjudicating Authority, then the CD moves into liquidation.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>

FAQs

Topic- Business Insolvency

(C) Selection and Dismissal of the Insolvency Administrator

B-Ready assessment area	Relevant Provisions	Links
<p>Insolvency Administrators Qualification Requirements in the Law-</p> <p>Existence in the regulatory framework of qualification requirements for insolvency administrators</p>	<p>Regulation 4, 5, 7, 12, 13 and 14, Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. Regulation 4,5,7 for individuals and regulation 4, 7(2), 12, 13, 14 for entities under (Insolvency Professionals) Regulations, 2016, provide for qualification and experience requirement; passing Limited Insolvency Examination and completion of pre-registration educational course (PREC), registration / enrolment with an Insolvency Professional Agency and conditions of being a Fit and Proper person, including absence of convictions and restraint orders. Further, post-registration an IP is required to undergo the stipulated hours of Continued Professional Education (CPE).</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28iw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://ibbi.gov.in/uploads/register/ip_regulations.pdf</p>
<p>Conditions for Disqualification-</p> <p>Existence in the regulatory framework of conditions for disqualification of insolvency administrators</p>	<p>Sections 217 – 220 The Insolvency and Bankruptcy Code, 2016 ; Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017 ; Regulation 7(2), Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. The relevant provisions are mentioned under Sections 217 – 220, IBC read with IBBI (Inspection and Investigation) Regulations, 2017 and with Regulation 7(2), Insolvency Professional Regulations 2016. The Code read with IBBI (Inspection and Investigation) Regulations, 2017 and IP Regulations set forth conditions under which an IP can be disqualified from a case and/or his registration may be suspended / cancelled.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28iw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://ibbi.gov.in/uploads/legalframework/976959ef593decc42e7cfbacf0a32861.pdf ;</p> <p>https://ibbi.gov.in/uploads/legalframework/c717b4646fb873cc0dce119420896355.pdf ;</p> <p>https://ibbi.gov.in/uploads/legalframework/d42403e6f7b77f24ee20a814caa3b822.pdf</p>

FAQs
Topic- Business Insolvency

(D) Management of Debtor's Assets

B-Ready assessment area	Relevant Provisions	Links
<p>Automatic Stay of Proceedings- Key features of a comprehensive regime for the stay of proceedings, including time limit</p>	<p>Section 14 and 14(4), The Insolvency and Bankruptcy Code, 2016. The Relevant provisions are mentioned under section 14 and 14 (4) of the IBC, As soon as CIRP is admitted/commenced, AA passes an order declaring moratorium under Section 14 of IBC. Section 14 prohibits institution of suits or continuation of pending suits or proceedings against corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Automatic Stay of Proceedings- Key features of a comprehensive regime for the stay of proceedings, including time limit</p>	<p>Section 14 and 14(4), The Insolvency and Bankruptcy Code, 2016. The Relevant provisions are mentioned under section 14 and 14 (4) of the IBC, Order of moratorium shall have effect from date of such order till completion of corporate insolvency resolution process.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Exceptions and Relief to Automatic Stay of Proceedings- Key features of a comprehensive regime for the stay of proceedings, including exceptions for perishable assets or for public policy interests</p>	<p>Section 17(2)(e) and 20(1), The Insolvency and Bankruptcy Code, 2016. Under section 17(2)(e) of the IBC, the interim resolution professional/resolution professional is responsible for complying with the requirements of all laws in force on behalf of the corporate debtor. Further, section 20(1) mandates the RP to protect and preserve the value of the corporate debtor and manage its operations as a going concern. Consequently, compliance with environmental, health, safety, and other regulatory laws must continue during CIRP, and any non-compliance may invite action by the competent statutory authorities notwithstanding the stay.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Exceptions and Relief to Automatic Stay of Proceedings- Key features of a comprehensive regime for the stay of proceedings, including exceptions for perishable assets or for public policy interests</p>	<p>Section 29A, 28, 52 and 65, The Insolvency and Bankruptcy Code, 2016. Section 14(3) is widely worded. However, because of the following provisions under the Code there is no possibility of the CD itself using insolvency proceedings for abuse : Section 29A bars defaulting promoters and those involved in fraud from submitting resolution plans; the creditor-in-control model shifts authority from the debtor's management to the Committee of Creditors; and the Resolution Professional manages the debtor's assets to ensure transparency. The moratorium does not cover criminal proceedings, and thus, offences by promoters before CIRP remain prosecutable. Sec 65 of the Code acts as a deterrent against misuse of the IBC framework and ensures that insolvency proceedings are invoked only for bona fide resolution objectives</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Exceptions and Relief to Automatic Stay of Proceedings- Key features of a comprehensive regime for the stay of proceedings, including exceptions for perishable assets or for public policy interests</p>	<p>Regulation 29, CIRP Regulations ; Regulation 33(2), The Liquidation Regulations ; Section 52, The Insolvency and Bankruptcy Code, 2016. AA has allowed sale of encumbered assets in some cases. For eg., in case of insolvency of Jet Airways sale of encumbered assets was allowed as sale of such assets enhanced chances of CD to function as going concern. Under Regulation 29 of CIRP Regulations, RP may sell unencumbered assets of CD, outside ordinary course of business, if</p>	

FAQs
Topic- Business Insolvency

B-Ready assessment area	Relevant Provisions	Links
	necessary for better value realisation, provided total book value of such sales during CIRP does not exceed 10% of admitted claims. Regulation 33(2) of Liquidation Regulation Provides that liquidator may also sell assets of CD by means of private sale only after prior consultation with consultation committee, when asset is perishable/likely to deteriorate in value significantly if not sold immediately	
<p>Exceptions and Relief to Automatic Stay of Proceedings- Key features of a comprehensive regime for the stay of proceedings, including exceptions for perishable assets or for public policy interests</p>	Regulation 29, CIRP Regulations ; Regulation 33(2), Liquidation Regulations ; Section 52, The Insolvency and Bankruptcy Code, 2016. Sec. 52 empowers secured creditors regarding such encumbered assets. Also, AA has allowed sale of encumbered assets in some cases. In Jet Airways case, sale of such encumbered assets was allowed for enhanced chances of CD to function as going concern. Under Regulation 29 of CIRP Regulations, RP may sell unencumbered assets of CD, outside ordinary course of business, if necessary for better value realisation. Regulation 33(2) of Liquidation Regulation Provides that liquidator may also sell assets of CD by means of private sale only after prior consultation with consultation committee, when asset is perishable/likely to deteriorate in value significantly if not sold immediately.	
<p>Continuation of Existing Essential Contracts- Existence of the provision that contracts that are essential to the debtor's business can be continued during the insolvency proceedings</p>	<p>Section 14 (2), 14(2A), 17 (1), and (2) and 35(e), The Insolvency and Bankruptcy Code, 2016 ; Regulation 32, The Corporate Insolvency Resolution Process (CIRP) regulations.</p> <p>Section 14 of IBC prohibits suspension or termination of supply of essential goods and services to CD to keep it as a going concern in ordinary course of Business. It provides for continuation of supply of goods and services which the IP considers 'critical' to protect and preserve value of CD and manage operations of such CD as a going concern. Further, it clarifies that license, permit, quota etc given by Central Government or State government, local authority or regulator shall not be suspended or terminated on grounds of insolvency of CD.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://icairvo.in/documents/CIRP%20Regulations%202016.pdf</p>
<p>Rejection of Existing Burdensome Assets- Existence of the provision that assets that are burdensome to the firm can be relinquished in insolvency proceedings</p>	<p>Section 14(2A) and 20(2)(b), The Insolvency and Bankruptcy Code 2016 ; Regulation 10(1)(a) and 10(1)(d), Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.</p> <p>Section 14(2A) and Section 20(2)(b), of IBC enable either the counterparty (through Section 14(2A)) or the IRP (through Section 20(2)(b)) to address or exit arrangements that would otherwise continue to drain the debtor's limited resources during insolvency. Under regulation 10(1)(a) and 10(1)(d) of the IBBI (Liquidation Process) Regulations, 2016 (Liquidation Process regulations), a liquidator may reject overly burdensome / unprofitable contracts.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://ibbi.gov.in/uploads/legalframework/8e241a378e16b2821da63658bad6f0a4.pdf</p>
<p>Voidance of Preferential and Undervalued Transactions - Existence of the provisions that</p>	Section 25(1)(j), 43 and 44, The Insolvency and Bankruptcy Code, 2016. Under section 25(1)(j), the resolution professional (RP) has the duty to file application for avoidance of transactions, if any. The RP is	https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-

FAQs
Topic- Business Insolvency

B-Ready assessment area	Relevant Provisions	Links
<p>preferential and undervalued transactions can be voided</p>	<p>empowered to apply to NCLT for appropriate remedies in respect of preferential transactions (under section 43) of the IBC. Further, The provisions for preferential transactions and orders that can be passed by the Adjudicating Authority in respect of these transactions are provided under Section 43 and 44 of the IBC respectively.</p>	<p>af0143991dbbd963f47def187e86517f.pdf</p>
<p>Voidance of Preferential and Undervalued Transactions - Existence of the provision that undervalued transactions can be voided</p>	<p>Section 25(1)(j), 45 and 48, The Insolvency and Bankruptcy Code, 2016. Under section 25(1)(j), the resolution professional (RP) has the duty to file application for avoidance of transactions, if any. The RP is empowered to apply to NCLT for appropriate remedies in respect of undervalued transactions (under section 45) of the IBC. Further, The provisions for undervalued transactions and orders that can be passed by the Adjudicating Authority in respect of these transactions are provided under Section 45 and 48 of the IBC.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Post-Commencement Credit Availability and Priority - Existence of the post-commencement credit availability</p>	<p>Section 20(2)(c) and 28, Insolvency and Bankruptcy Code, 2016. Section 20(2)(c) of the IBC enables the resolution professional to raise interim finance to keep the CD as a going concern with the approval of the CoC with 66% of the voting share.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Post-Commencement Credit Availability and Priority - Existence of the post-commencement credit priority over ordinary unsecured creditors during distribution of assets</p>	<p>Section 30(2)(a), sub-sections 13, 14, and 15 Section 5, 53(1)(a), The Insolvency and Bankruptcy Code, 2016. Under the Code, post-commencement credit constitutes a part of insolvency resolution process costs, which are required to be repaid in priority to all other debts under any resolution plan to be approved by creditors' committee. This is stipulated in Section 30(2)(a) of IBC read in conjunction with sub-sections 13, 14 and 15 of Section 5 of IBC. In addition, insolvency resolution process costs (which includes post commencement credit) ranks higher than all other claims (Section 53(1)(a) of the IBC). Decision to raise interim finance has to be approved by CoC as per section 28(1)(a).</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>

FAQs

Topic- Business Insolvency

(E) Creditor's Rights in Liquidation and Reorganization

B-Ready assessment area	Relevant Provisions	Links
<p>Creditor Representation- Facilitation of creditor representation in Insolvency Proceedings</p>	<p>Section 21, Insolvency and Bankruptcy Code, 2016. The Code provides for constitution of a Committee of Creditors (CoC) by the interim resolution professional (IRP) on the basis of the claims received against the corporate debtor (CD). The CoC comprises of all financial creditors (FCs) of the CD, except those FCs that are related parties of the CD. Where the CD has no FCs, the CoC comprises of operational creditors.</p>	<p>https://ibbi.gov.in/uploads/legalframwork/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Request of Information by Creditors- Ability of creditors to request up-to-date information on the Corporate Debtor's business and financial affairs</p>	<p>Section 29, The Insolvency and Bankruptcy Code, 2016 ; Regulation 31B, 36, The Corporate Insolvency Resolution Process (CIRP) regulations. Section 29 of IBC requires Resolution Professional (RP) to prepare Information Memorandum (IM) containing key details of corporate debtor (CD), including financial statements, list of creditors, assets, liabilities, details of guarantees in relation to debts of CD etc. Regulation 36(1) mandates sharing IM electronically with each CoC member & updation thereof, Regulation 36(3) allows to seek additional relevant information. Regulation 31B, RP must update CoC in each meeting on CD's operational status & CIRP costs. Regulation 36(2)-IM must contain details of all identified avoidance transactions. Thus updation of electronic records and IM, ensures transparency and updated information on CD's business & financial affairs to key stakeholders.</p>	<p>https://ibbi.gov.in/uploads/legalframwork/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://icairvo.in/documents/CIRP%20Regulations%202016.pdf</p>
<p>Priority of Secured Claims- Availability of an absolute priority for secured creditors over all other creditors</p>	<p>Section 30(4), 52 and 53, The Insolvency and Bankruptcy Code, 2016. In reorganisation proceedings, under section 30(4). Committee of creditors (CoC) may approve resolution plan after considering manner of distribution proposed, which may take into account order of priority amongst creditors as laid down in section 53(1), including priority & value of security interest of a secured creditor. A secured creditor in liquidation proceedings may (a) relinquish its security interest to liquidation estate & receive proceeds from sale of assets by liquidator in manner specified in section 53; or (b) realise its security interest in manner specified in this section. Where secured creditor realises security interest he may apply proceeds to recover debts due to it.</p>	<p>https://ibbi.gov.in/uploads/legalframwork/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Priority of Labor and Environmental Claims - Priority of labor claims over ordinary unsecured creditors</p>	<p>Section 53(1)(b), The Insolvency and Bankruptcy Code, 2016. The relevant provisions has been mentioned under Section 53(1)(b) of IBC. Labour claims / workmen dues rank second in the order of priority and equal to secured creditors who have relinquished security interest.</p>	<p>https://ibbi.gov.in/uploads/legalframwork/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Priority of Labor and Environmental Claims - Priority of environmental claims over ordinary unsecured creditors</p>	<p>Section 30(2)(e) and 53, The Insolvency and Bankruptcy Code, 2016. Section 30(2)(e) of the Code provides that the resolution plan shall not contravene any of the laws for the time being in force. Further, as the IP is mandated to keep the company as going concern, ensuring compliances with environmental laws and satisfaction of related claims is a sin qua non. Thus, without any express provision in Code, environmental claims largely get due priority in processes under the Code. "Furthermore, environmental claims generally fall under Government/State dues.</p>	<p>https://ibbi.gov.in/uploads/legalframwork/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>

FAQs
Topic- Business Insolvency

B-Ready assessment area	Relevant Provisions	Links
<p>Special Regime for Labor Claims- Existence of a special regime for labor standards in insolvency proceedings</p>	<p>Section 30(2)(b), 36, 53(1)(b) and 53(1)(c), The Insolvency and Bankruptcy Code, 2016. Provisions mentioned in Section 30(2)(b), 36, & 53(1)(b), 53(1)(c) of IBC Code protects workmen & employees claims in insolvency. Dues owed to employees are 'operational debt' along with claims for provision of goods/services & statutory dues. Code provides certain minimum pay-out to OCs, which shall not be less than (a) what they would receive in event of liquidation, or (ii) what they would receive if amount to be distributed under resolution plan is in accordance with liquidation waterfall. This has strengthened employees & workmen position in CIRP. Further, under Section 53, claims of workmen are second only to process costs & are at par with secured creditors. Claims of employees, other than workmen follow those of workmen.</p>	<p>https://ibbi.gov.in/uploads/legalframwork/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>

FAQs

Topic- Business Insolvency

(F) Specialized Insolvency Proceedings for Micro and Small Enterprises (MSEs)

B-Ready assessment area	Relevant Provisions	Links
<p>Availability and Eligibility- Existence within the insolvency law of a simplified insolvency regime for MSEs</p>	<p>Chapter IIIA, Section 240A, The Insolvency and Bankruptcy Code, 2016. Pre-packaged insolvency resolution process (PPIRP), Chapter IIIA, Code. Further, section 240A of IBC grants the Central Government the authority to modify or exempt certain Code provisions for Micro, Small, and Medium Enterprises (MSMEs). This section acknowledges the unique challenges faced by MSMEs, aiming to provide a more tailored approach to insolvency resolution for these entities, thereby supporting their vital role in the economy.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Debt Discharge- Existence of provisions granting an expeditious discharge in simplified liquidation proceedings</p>	<p>Section 54L and 31, The Insolvency and Bankruptcy Code, 2016 ; Regulation 14, Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. The relevant provisions has been mentioned under section 54L read with Section 31 of IBC. Regulation 14 of the IBBI (Liquidation Process) Regulations, 2016. The Government introduced Pre-Packaged Insolvency Resolution Process (PPIRP) for the corporate MSMEs through an amendment to the Code on 4th April 2021. In the said framework, once the Adjudicating Authority approves the resolution plan, the corporate MSMEs debts are discharged under section 54L read with section 31 of the Code.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf ;</p> <p>https://ibbi.gov.in/uploads/legalframework/8e241a378e16b2821da63658bad6f0a4.pdf</p>
<p>Conversion of Proceedings- Existence of a mechanism providing for the possibility that, at any point during a simplified reorganization proceeding, the proceeding be discontinued and converted to a liquidation, if the competent authority determines that the debtor is insolvent and that there is no prospect for a viable reorganization</p>	<p>Section 54O, The Insolvency and Bankruptcy Code, 2016. The relevant provisions has been mentioned under section 54O of IBC. Under PPRIP, the PPRIP process can be closed and converted into CIRP based on an application filed by the RP, where the CoC approves so with 66% of voting share, and the CD is eligible for CIRP. On commencement of CIRP, the CoC can decide to liquidate the CD.</p>	<p>https://ibbi.gov.in/uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>

FAQs
Topic- Business Insolvency

(G) Cross-Border Insolvency

B-Ready assessment area	Relevant Provisions	Links
<p>Existence of Framework and Recognition of Foreign Insolvency Proceedings- Existence of a mechanism to recognize foreign insolvency proceedings</p>	<p>Sections 234 and 235 of The Insolvency and Bankruptcy Code, 2016 enable Central Government to enter into bilateral agreements with foreign countries for enforcing provisions of Code and provide for issuance of letter of request by Adjudicating Authority (AA) to court/authority of such country, where evidence/action is required in relation to assets of CD, debtor or PG of CD situated in that country. Provisions to deal with issues arising in cross border insolvency proceedings are provided in framework which can be used on need basis. AA has exercised its inherent powers to put in place protocols for cooperation and coordination between resolution professionals of Indian and foreign jurisdiction. E.g. Jet Airways (India) Ltd.</p>	<p>https://ibbi.gov.in//uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>
<p>Legal Framework for Cooperation with Foreign Courts and Representatives- Existence of a legal system aimed at facilitating cooperation with foreign courts and representatives</p>	<p>Sections 234 and 235 of The Insolvency and Bankruptcy Code, 2016 enable Central Government to enter into bilateral agreements with foreign countries for enforcing provisions of Code and provide for issuance of letter of request by Adjudicating Authority (AA) to court/authority of such country, where evidence/action is required in relation to assets of CD, debtor or PG of CD situated in that country. Provisions to deal with issues arising in cross border insolvency proceedings are provided in framework which can be used on need basis. AA has exercised its inherent powers to put in place protocols for cooperation and coordination between resolution professionals of Indian and foreign jurisdiction. E.g. Jet Airways (India) Ltd.</p>	<p>https://ibbi.gov.in//uploads/legalframework/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf</p>

FAQs

Topic- Business Insolvency

II. QUALITY OF INSTITUTIONAL AND OPERATIONAL INFRASTRUCTURE FOR JUDICIAL INSOLVENCY PROCEEDINGS

(A) Electronic Judicial Services in Liquidation and Reorganization

B-Ready assessment area	Relevant Provisions	Links
Electronic Filing- Existence of fully operational e-filing system	Insolvency judicial system has been digitized and been included within updated e-courts. Both, electronic filing for bankruptcy comments and e-payments of court fees have been implemented for debtors and creditors. Presently, Hon'ble Supreme Court and High Courts do not insist on hard copies to be filed. NCLT also follows same practice.	https://efiling.nclt.gov.in/mainPage.drt ; https://nclt.gov.in/sites/default/files/tender/circulars/publicnotices/Order%20dated%2022.12.2023-Mandatory%20Pre-Requisite%20For%20E-filing%20Matters%20In%20NCLT.pdf
Electronic Filing- Existence of fully operational e-filing system	Hard copies do not need to be submitted along with electronic filings.	
Electronic Payment of Court Fees- Existence of e-payment systems, in addition to a functional case management system for judges, lawyers, and insolvency administrators	Both, electronic filing for bankruptcy comments and e-payments of court fees have been implemented for debtors and creditors. There is no requirement of physical interaction with the bank, the court or the post office to complete e-payment.	https://efiling.nclt.gov.in/mainPage.drt ; https://efiling.nclt.gov.in/pdf/manual.pdf
Electronic Payment of Court Fees- Existence of e-payment systems, in addition to a functional case management system for judges, lawyers, and insolvency administrators	No physical interaction with a bank, the court, or the post office is required to complete electronic payment.	
Virtual Hearing- Possibility to conduct hearings virtually	Since 2020, the hearings are taking place in hybrid mode in NCLTs including the NCLT Benches at Mumbai and Delhi, which cater to the largest volume of corporate insolvency cases owing to their jurisdiction over major business hubs. These NCLT's are operational and continuing to hear matters through video conferencing to ensure timely disposal of cases. The link for the cause list directs the user to the hearings before the relevant Bench of the NCLT/Court.	https://nclt.gov.in/all-cause-list?field_nclt_benches_list_target_id=110&field_cause_date_value=08%2F01%2F2025&field_cause_date_value_1=08%2F02%2F2025&captcha_sid=19026923&captcha_token=sO CQF7RuS12tInksKU-hYVho SqKx5QP37W5ui1EL64&captcha_response=11
Electronic Auction- Possibility to conduct auctions virtually	IBBI introduced BAANKNET (formerly eBKray) as a single window auction platform for liquidation sales. IBBI, through circular dated 10th January 2025, directed Insolvency Professionals (IPs), mandating that all auctions under liquidation process must be conducted exclusively through BAANKNET platform, with effect from 1st April 2025.	https://ibbi.baanknet.com/e-auction-ibbi/home

FAQs
Topic- Business Insolvency

B-Ready assessment area	Relevant Provisions	Links
Electronic Auction- Possibility to conduct auctions virtually	The auction takes place on the electronic platform only. However, if the liquidator is of the opinion that a physical auction is likely to maximize the realization from the sale of assets and is in the best interests of the creditors, he may sell assets through a physical auction after obtaining the permission of the Adjudicating Authority.	

FAQs

Topic- Business Insolvency

(B) Electronic Case Management Systems in Liquidation and Reorganization

B-Ready assessment area	Relevant Provisions	Links
Electronic Case Management for Judges and Lawyers - Existence of case management features implemented in insolvency proceedings for judges	All the features have been implemented in Case Information system by NCLT(electronic case management system) for insolvency proceedings. They can manage and access procedural case documents including petition, reply, rejoinders, and view court orders, by accessing the link with their credentials created at the time of registration	https://efiling.nclt.gov.in/nclt/login.php
Electronic Case Management for Judges and Lawyers - Existence of case management features implemented in insolvency proceedings for lawyers	All the features have been implemented in e-Filing Module of e-Courts (NCLT) application (electronic case management system) insolvency proceedings. Registered users can send/receive notifications, manage and file case documents, and access court orders via the link using credentials created at registration. Page 6 of the User Manual lists eligible user types: Individual, Advocate, CA, CS, Cost Accountant, ROC, Regional Director, Liquidator, IRP/RP, and others. Pages 42–66 cover e-Filing under IBC Act 2016, allowing addition of petitioner/respondent/IRP details and document upload. Pages 90–106 detail IRP/RP login with similar functionalities.	https://efiling.nclt.gov.in/mainPage.drt https://efiling.nclt.gov.in/pdf/manual.pdf
Electronic Case Management for Insolvency Administrators- Existence of case management features implemented in insolvency proceedings for the insolvency administrators	All the features have been implemented in e-Filing Module of e-Courts (NCLT) application (electronic case management system) insolvency proceedings. Registered users can send/receive notifications, manage and file case documents, and access court orders via the link using credentials created at registration. Page 6 of the User Manual lists eligible user types: Individual, Advocate, CA, CS, Cost Accountant, ROC, Regional Director, Liquidator, IRP/RP, and others. Pages 42–66 cover e-Filing under IBC Act 2016, allowing addition of petitioner/respondent/IRP details and document upload. Pages 90–106 detail IRP/RP login with similar functionalities.	https://efiling.nclt.gov.in/mainPage.drt https://efiling.nclt.gov.in/pdf/manual.pdf
Electronic Monitoring of the Status of Insolvency Proceedings- Possibility for the parties to the process to electronically track the status of the case	Creditors and debtors (both) can electronically monitor the status of Insolvency proceedings	https://nclt.gov.in/case-number-wise

FAQs

Topic- Business Insolvency

(C) Interoperability in Insolvency Proceedings

B-Ready assessment area	Relevant Provisions	Links
Interconnection Between Case Management System and e-Filing Systems- Exchange or transfer of data between case management systems so that they communicate in a coordinated way, without effort from the end user	Case information system and e-filing system by NCLT are interconnected.	https://nclt.gov.in/diary-number-wise
Interoperability with External Systems- Exchange of data with other authorities that enhances the efficiency of the administration of justice	https://nclt.gov.in/diary-number-wise	

FAQs

Topic- Business Insolvency

(D) Public Information on Insolvency Proceedings and Registry of Insolvency Practitioners

B-Ready assessment area	Relevant Provisions	Links
<p>Publication of Judgments in Insolvency Procedures- Whether judgments concerning insolvency proceedings are publicly available</p>	<p>All Judgments concerning insolvency proceedings rendered at the NCLT, NCLAT, HC and Supreme Court are available on their respective websites. The same are also available on IBBI website.</p>	<p>https://nclt.gov.in/order-cp-wise</p>
<p>Publication of Data on the Number and Type of Insolvency Procedures- Whether the data on number and types of insolvency proceedings in the economy per year is publicly available</p>	<p>Data on number and types of insolvency proceedings are published in IBBI's Annual Reports and Quarterly Newsletters. Further, details of resolved and liquidated cases are published quarterly in excel format on IBBI website. Details of individual corporate debtors admitted into insolvency under the IBC are also available on a centralised dashboard on IBBI website.</p>	<p>https://ibbi.gov.in/en/publication</p>
<p>Publication of Data on the Average Length of Insolvency Procedures- Whether the data on the average length of insolvency proceedings is publicly available</p>	<p>Data on average length of insolvency proceedings are published in IBBI's Annual Reports and Quarterly Newsletters.</p>	<p>https://ibbi.gov.in/en/publication</p>
<p>Availability of a Register of Insolvency Practitioners- Whether there is a register of insolvency practitioners and/or firms qualified to offer insolvency services and whether the register is available to the public through electronic means</p>	<p>The list of all registered IPs is available on the IBBI website. Further, the panel of IPs who are eligible for appointment in cases as IRP/ RP/ Liquidator/ Bankruptcy Trustee is available on IBBI website and made available to the https://ibbi.gov.in/uploads/whatsnew/d3a39f56291292cc845aeefb98821fa5.pdf</p>	<p>https://ibbi.gov.in/ips-register/view-ip/1</p>

FAQs

Topic- Business Insolvency

(E) Specialization of Courts with Jurisdiction on Reorganization and Liquidation Proceedings

B-Ready assessment area	Relevant Provisions	Links
<p>Expertise of Specialized Courts with Jurisdiction over Insolvency Proceedings- Existence of a court, court division or bench with specialized insolvency expertise</p>	<p>All NCLT benches, including those in Mumbai, oversee and impartially dispose and decide corporate insolvency matters under the IBC. These benches are trained and experienced in Insolvency laws. Similarly, DRT benches handle individual insolvency cases.</p>	<p>Website link of NCLT: https://nclt.gov.in/ Website link of DRT: https://drt.gov.in/</p>
<p>Name of this court, division, or bench</p>	<p>The National Company Law Tribunal (NCLT) is Adjudicating Authority (AA) for corporate insolvency cases under IBC. There are presently 16 benches of NCLT including Principal Bench at Mumbai and all are fully operational. AA for individual insolvency matters under IBC is Debt Recovery Tribunal (DRT). There are 39 DRTs presently and all are fully operational. In individual insolvency cases pertaining to personal guarantor to corporate debtor (CD), if CIRP has already been admitted against CD, then AA in such matters is NCLT. In Mumbai, all corporate insolvency matters under IBC are dealt by bench of the NCLT. Similarly, DRT benches in Mumbai deal with individual insolvency matters.</p>	
<p>Operability of Courts with Jurisdiction over Insolvency Proceedings- The court or a judge/division/bench in a commercial court with specialized insolvency expertise is operational. The court is operational if it has implemented in practice</p>	<p>The National Company Law Tribunal (NCLT) is Adjudicating Authority (AA) for corporate insolvency cases under IBC. There are presently 16 benches of NCLT including Principal Bench at Mumbai and all are fully operational. AA for individual insolvency matters under IBC is Debt Recovery Tribunal (DRT). There are 39 DRTs presently and all are fully operational. In individual insolvency cases pertaining to personal guarantor to corporate debtor (CD), if CIRP has already been admitted against CD, then AA in such matters is NCLT. In Mumbai, all corporate insolvency matters under IBC are dealt by bench of the NCLT. Similarly, DRT benches in Mumbai deal with individual insolvency matters.</p>	