




## INSOLVENCY & BANKRUPTCY CODE (IBC), 2016

### CONCEPT OF INSOLVENCY AND BANKRUPTCY

 Term	 Meaning
Insolvency	When a person or business cannot meet financial obligations as they become due. It can be <b>temporary</b> (recoverable) or <b>permanent</b> (requires liquidation).
Bankruptcy	<b>Legal declaration of insolvency.</b> Initiated voluntarily or by a court. Assets are liquidated and distributed among creditors. Offers a fresh start. 

### Insolvency & Bankruptcy Code (IBC)

- It is a **comprehensive law** enacted by the Government of India to **address the problem of insolvency and bankruptcy among companies, partnership firms, and individuals** in a time-bound manner.

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- The **Insolvency and Bankruptcy Code, 2016 (IBC)** came into force on **28th May, 2016** with Presidential assent. It became operational from **1st December, 2016**.
- IBC is not a recovery law, but a **business continuity and survival framework** that provides relief to both **debtors** and **creditors** by facilitating revival first, then liquidation if necessary. 🔄 📁

#### ◆ 28.3 COVERAGE OF IBC 📋




IBC applies to:

🏢 Entity Type	☑ Covered Under IBC
Companies under Companies Act, 2013	✓
Companies governed by special Acts	✓ (with exceptions)
LLPs under LLP Act, 2008	✓
Other bodies notified by Central Govt.	✓
Partnership Firms & Individuals	✓

#### ◆ 28.4 PILLARS OF IBC 🏛️

IBC stands on **four institutional pillars**:

🏛️ Pillar	🔍 Functionality
📋 Insolvency Professionals (IPs)	Administer the resolution, liquidation or bankruptcy process







2 Information Utilities (IUs)	Collect, verify & share credit info 
3 Adjudicating Authorities	NCLT (for companies), DRT (for individuals/partnerships) 
4 IBBI	Regulatory oversight body 

◇ 28.4.1 Insolvency Professionals (IP) 

- Help in **resolution, liquidation & bankruptcy** proceedings
- Governed by **Insolvency Professional Agencies (IPAs)**
- Must pass the **Limited Insolvency Examination** (conducted by IBBI)

◇ 28.4.2 Information Utilities (IUs) 

Example: **National e-Governance Services Ltd (NeSL)**

 Function	 Description
<b>Data Handling</b>	Maintain electronic databases of loans, contracts, and defaults 
<b>Evidence</b>	Provide authenticated data as <b>legal proof</b> 
<b>Communication Tool</b>	Enable 2-way info flow between borrower & creditor 
<b>Cost-Efficient</b>	Quick verification of borrower obligations 

◇ 28.4.3 Adjudicating Authorities ⚖️

 Court / Tribunal	 Jurisdiction / Role
NCLT (National Company Law Tribunal)	Handles insolvency cases of companies and LLPs 🏢
DRT (Debt Recovery Tribunal)	Handles insolvency cases of individuals and partnerships 👤
NCLAT (National Company Law Appellate Tribunal)	Hears appeals against NCLT orders 🔄
DRAT (Debt Recovery Appellate Tribunal)	Hears appeals against DRT orders 🔄
Supreme Court of India	Hears appeals from NCLAT, but only on questions of law ⚖️

🚫 **Civil Courts** have no jurisdiction under IBC.

🕒 Appeal Timelines:

- NCLT → NCLAT: **30 days** (+15 days if justified)
- DRT → DRAT: **30 days** (+15 days if justified)
- NCLAT → Supreme Court: **15 days** (question of law)
- DRAT → Supreme Court: **45 days** (question of law)

◇ 28.4.4 Insolvency and Bankruptcy Board of India (IBBI) 🏢

- Regulates **IPs – Insolvency Professionals, IPAs – Insolvency Professional Agencies, IUs – Information Utilities.**








- Ensures time-bound resolution of insolvency cases
- Supports **creditor-driven resolutions** or liquidation plans
- Plays a key role in **redeploying capital** efficiently into the economy 💰

◆ 28.5 PURPOSE OF IBC 🎯

👍 Objective	🔍 Explanation
a. Consolidation	Unify and amend existing insolvency laws 🔄
b. Timely Execution	Ensure swift case resolutions ⌚
c. Maximize Value	Prevent value erosion of distressed assets 📉
d. Promote Entrepreneurship	Offer a second chance to entrepreneurs 👤
e. Increase Credit Availability	Improve lender confidence 💳
f. Stakeholder Balance	Fair distribution of claims, incl. government dues ⚖️
g. Establish IBBI	Ensure regulatory control over insolvency mechanisms 🏛️






## Summary Table – IBC (Corporate Insolvency)

 Element	 Details
Law Enacted	May 28, 2016
Law Operational	Dec 1, 2016
Nature	Resolution before Liquidation 
Applicable To	Companies, LLPs, Individuals, Partnerships
Not Applicable To	Banks, FIs, Insurance Companies 
Adjudication Authority	NCLT, DRT
Appeal Forums	NCLAT, DRAT, Supreme Court
Regulator	IBBI
Data Management	Information Utilities (e.g., NeSL) 
Admin Process	Insolvency Professionals (IPs) 
Max Benefit	Timely revival, Credit access, Stakeholder protection 






### ◆ 28.6 INSOLVENCY RESOLUTION PROCESS FOR COMPANIES & LLPs

When a **default of ₹1 crore or more** occurs (principal + interest), a creditor may initiate **Insolvency Resolution Process**. IBC outlines **two stages**:








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Stage 	Description
a. Insolvency Resolution Process	Viability assessment & revival planning 
b. Liquidation	Sale and distribution of debtor's assets if revival fails 

### ◆ 28.6.1 Corporate Insolvency Resolution Process (CIRP)

 Who Can Initiate CIRP?	 Entity Type
Financial Creditor (FC)	Loan-based creditor 
Operational Creditor (OC)	Supplier/service-based creditor 
Corporate Debtor (CD)	Entity defaulting on its dues 

### Corporate Insolvency Resolution Process Workflow:

 Step	 Description
1	OC must send a <b>10-day demand notice</b> before approaching NCLT. If unpaid or undisputed, file application.
2	<b>NCLT admits application</b> and CIRP begins. All claims <b>frozen for 180 days</b> 
3	<b>IRP (Interim Resolution Professional)</b> appointed by NCLT within 14 days 
4	<b>IRP tenure</b> = 30 days. Committee of Creditors may retain/replace IRP by 66% vote 
5	<b>Public announcement</b> of CIRP made. Claims are invited 
6	<b>Committee of Creditors (CoC)</b> is formed. Related parties not eligible to vote 





7	First CoC meeting must be within 7 days. Resolution Professional (RP) appointed.
8	RP prepares <b>Information Memorandum</b> and invites <b>Resolution Plans</b>
9	CoC approves resolution plan by <b>66% vote</b> or recommends liquidation
10	NCLT approves final plan and it's implemented

### CoC Voting Rules:

Purpose	Vote % Needed
Regular decisions	51%
Critical matters / Resolution Plan	66%
Withdrawal of CIRP (Sec 12A)	90%
Call CoC Meeting	33%

### ◆ Liquidation Process

Occurs when:

- No resolution plan submitted in time 
- NCLT **rejects** plan 
- CoC votes for liquidation 
- Debtor **violates** resolution plan 



Liquidation



Highlights



Actions

<b>Liquidator Appointed</b>	RP becomes Liquidator (unless replaced) 🧑
<b>Creation of Liquidation Estate</b>	Assets pooled for sale ⚖️
<b>Creditor Claims</b>	Accepted/rejected by liquidator within deadline 📅
<b>Lawsuits</b>	Only filed by Liquidator with NCLT permission ⚠️
<b>Secured Creditors</b>	Can enforce outside or relinquish and claim from liquidation proceeds 💼

📌 *Any surplus from secured asset sale must be given to liquidator.*

If **recovery < debt**, shortfall treated as **unsecured claim** ▼

#### ▼ 28.6.2.1 Liquidation Waterfall – Order of Debt Payment 🍇

 Priority	 Category
i.	Insolvency & liquidation costs 💼
ii.	Workmen's dues (last 24 months) + Secured creditors (relinquished rights) 🧑
iii.	Employee wages (excluding workmen – 12 months) 🧑
iv.	Unsecured financial debts + old workmen dues 🔄
v.	Govt dues + Secured creditors (enforced rights) 🏛️
vi.	Other remaining debts 🔍
vii.	Preference shareholders 📄
viii.	Equity shareholders/partners 📉

### ◆ Voluntary Liquidation 🙌

Applies when:





- No **default** exists ⚠️
- Company wishes to **exit business** 📁

🔍 Requirement	📌 Details
<b>Declaration</b>	By <b>majority of directors</b> stating no fraud involved 📄
<b>Approval</b>	By <b>creditors holding 2/3rd of debt value</b> 📁
<b>Liquidation Start</b>	From creditor approval date 📅
<b>Process Followed</b>	Same as liquidation procedure ✔️
<b>Dissolution</b>	Declared by NCLT after asset disposal ➡️ END

### ◆ IMPORTANT AMENDMENTS TO IBC ⚖️ 📄





Since its inception, the **Insolvency and Bankruptcy Code (IBC)** has undergone several amendments to **enhance clarity, close loopholes, and address real-world challenges**. Two significant amendments in **2020** reshaped the CIRP process.

◆ Amendment to Section 5 

 Change	 Details
<b>Insolvency Commencement Date</b>	Now begins on date of <b>application admission</b> by NCLT, not IRP appointment 
<b>Interim Finance Scope</b>	Broadened to include additional notified debts 

◆ Amendment to Section 7 

Introduced thresholds for **joint filing** by financial creditors:



 Creditor Type	 Threshold to File CIRP
<b>Creditors in same class</b>	Min 100 OR 10% of total (whichever is less) 
<b>Real estate allottees</b>	100 allottees OR 10% of project allottees 

 Individual creditors in these classes **cannot file alone**.

◆ 28.7.3 Amendment to Section 11 

Clarification: A **corporate debtor (CD)** can file CIRP against another CD. 



◆ Amendment to Section 14 🚫

 Clause	 Change
Sec 14(1)	Govt. licenses/quotas etc. can't be suspended <b>during moratorium</b> if payments are current ✅
Sec 14(2A)	Essential goods/services <b>must continue</b> if RP deems them critical 🔌
Sec 14(3)(a)	Govt. may notify <b>exempt transactions</b> from moratorium scope 🚫🔌



◆ 28.7.5 Amendment to Section 16 🕒

- **IRP now appointed** on insolvency commencement date (not within 14 days) ➡️ Faster process ⚡


◆ Amendment to Section 21 🧑🏫

 Change	 Impact
<b>Related Party Voting</b>	Financial creditors regulated by sectoral authorities who became related via equity conversion <b>are not excluded</b> from CoC participation (subject to conditions) 👥

◆ Amendment to Section 23 



- RP can continue managing operations even **after CIRP period ends** till:
  - NCLT approves a resolution plan 
  - Or, a liquidator is appointed 

◆ Amendment to Section 29A 

- Government empowered to notify transactions that determine eligibility of applicants.
- Greater clarity on **who qualifies** as a 'related party'. 

◆ Section 32A Introduced – Immunity Clause 

 CD is **not liable** for offences committed before CIRP if:

- New management has taken over 
- New owners not involved in fraud/conspiracy 

 Protects both CD & its property (if covered under resolution plan).

## Amendment to Section 240

- IBBI empowered to create regulations to control **termination of critical goods/services** during moratorium (Section 14(2A)).

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### ◆ Section 66(3) Introduced – Fraud Control

- RP **cannot file** fraudulent business conduct case under Sec 66 if CIRP is suspended under Section 10A. ❌

## PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS (PIRP) [MSME]

### ◆ PPIRP – An Introduction

**Micro, Small and Medium Enterprises (MSMEs)** are crucial to the economy, contributing significantly to GDP and employment.

The **COVID-19 pandemic** led to financial stress for many MSMEs, prompting the need for a **specialised insolvency framework**.

➔ To address this, the **Pre-Packaged Insolvency Resolution Process (PPIRP)** was introduced via the **IBC (Amendment) Ordinance, 2021** and converted into law on **11th August 2021**.

📋 Key Highlights:










- PPIRP is tailored for **corporate MSMEs** with default of **₹10 lakh or more**.
- CIRP threshold = ₹1 crore ⚖️ | PPIRP threshold = ₹10 lakh 📋
- Combines **informal (pre-initiation)** and **formal (post-initiation)** phases ↻
- In **PPIRP**, the **existing management (debtor)** continues to **run the business** — this is called “**debtor-in-possession**.”
- **Creditors (through the Committee of Creditors or CoC)** have strong oversight and **must approve the resolution plan** — this is “**creditor-in-control**.” 📁
- Emphasis on **value maximisation, speed, and cost-effectiveness** 💡
- **No automatic liquidation** if no plan is received ✅


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◆ 28.9 Eligibility for PPIRP ✅

A **Corporate Debtor (CD)** can apply for PPIRP if:







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 Condition	 Criteria
<b>MSME Status</b>	Must be an MSME under MSMED Act, 2006 
<b>Default</b>	Minimum of ₹10 lakh 
<b>Resolution Eligibility</b>	Must be eligible under Section 29A 
<b>No Recent PPIRP</b>	No PPIRP in past 3 years 
<b>No Recent CIRP</b>	No CIRP in past 3 years 
<b>Not Undergoing CIRP</b>	Must not be in current CIRP 
<b>Not Under Liquidation</b>	No Sec 33 liquidation order 

 MSME status to be supported with **Udyam Registration Certificate** or proof of investment & turnover as per Govt. Notification.







### ◆ 28.10 Pre-Initiation Stage (Hybrid Phase)

 Key Components:

 Step	 Activity
	Convene meeting of <b>Unrelated Financial Creditors (UFCs)</b> or <b>Unrelated Operational Creditors (UOCs)</b> . Notice to be sent 5 days in advance. 
	Share list of creditors & dues in <b>Form P2</b> 

3	UFCs with $\geq 10\%$ debt propose name of IP (independent of CD) 
4	UFCs with $\geq 66\%$ value approve appointment of RP + terms in <b>Form P3</b> 
5	CD's directors/partners file <b>declaration in Form P6</b> with 3 clauses (application timeline, no fraud intent, RP name) 
6	CD members/partners pass resolution approving PPIRP 
7	CD prepares <b>Base Resolution Plan (BRP)</b> as per Section 54K 
8	Enclose all supporting docs in notice: Form P2, Form P6, resolution, BRP 
9	UFCs with $\geq 66\%$ value approve initiation in <b>Form P4</b> 
10	IP identifies class of creditors (if any), 3 potential ARs, obtains consent via <b>Form P5</b> , and shares with applicant 
11	IP prepares <b>Form P8</b> report confirming eligibility & BRP compliance 

◆ 28.11 Application for Initiation 

12 Step	 Process
1	Only <b>corporate applicant</b> can file PPIRP 
2	File application in <b>Form 1</b> (electronic) before <b>Adjudicating Authority (AA)</b> – NCLT 
3	Serve a copy to <b>IBBI</b> before filing with AA 
4	AA must admit/reject within <b>14 days</b> . Defects (if any) to be corrected within <b>7 days</b> 
5	PPIRP <b>commences</b> on date of admission 

6	On admission, AA: - Declares <b>moratorium</b> as per Sec 14(1)/(3) - Appoints IP as RP - Orders <b>public announcement</b> 📢
7	IP duties cease if: - Application not filed in time - Application not admitted ❌

### 🔗 PPIRP vs CIRP – Quick Comparison Table

🏛️ Feature	🔄 CIRP	📄 PPIRP
<b>Applicable For</b>	All corporates	Only MSMEs
<b>Min. Default Threshold</b>	₹1 crore	₹10 lakh
<b>Initiated By</b>	FC/OC/CD	Only CD
<b>Role of Debtor</b>	Displaced	Stays in control
<b>Moratorium</b>	Yes	Yes
<b>Liquidation If No Plan</b>	Yes	No
<b>Court Involvement</b>	High	Limited
<b>Timeline</b>	Up to 270 days	Faster

### ◆ POST-INITIATION PHASE 🛠️ 📅

📅 Step	📌 Description
1	PPIRP must be <b>completed within 120 days</b> from commencement date ⌚
2	Management continues with <b>Board of Directors/Partners</b> of the CD 🏢
3	CD must submit to RP within <b>2 days</b> : (a) List of claims in <b>Form P10</b> (b) Preliminary Information Memorandum (PIM) 📄

4	CD must submit Base Resolution Plan (BRP) to RP within <b>2 days</b> 📅
5	RP makes <b>public announcement</b> in <b>Form P9</b> within <b>2 days</b> 📄
6	RP assumes duties under Section <b>54F</b> 📄

### ◆ 28.13 APPROVAL OF RESOLUTION PLAN ✅ 📄

#### 📊 Scenarios for Approval

🔍 Condition	⚙️ Action by CoC or RP
BRP doesn't impair OCs' claims	CoC may directly approve BRP and submit to AA 👍
BRP impairs OCs' claims / not approved	RP invites competing resolution plans 🔔

#### 📦 Resolution Plan Invitation:

- RP publishes **Form P11** within **21 days** from PPIRP start date
- Invitation includes:
  - Evaluation criteria 📊
  - What qualifies as "significantly better" 📈
  - Tick size (min difference for comparison) 📊
  - Plan improvement mechanism 🔄
  - **No non-refundable deposit** allowed ❌

### Plan Evaluation:



- Best scoring plan = **Best Alternate Plan (BAP)**
- If **no competing plan**, CoC may approve BRP
- If **BAP is significantly better**, CoC may approve BAP
- If **BAP ≠ significantly better**, RP discloses scores → triggers plan **improvement round**

### Plan Improvement:



- Continues until one submitter **fails to revise** plan within time limit ⌚
- Final higher scoring plan is considered by CoC 🏁
- If CoC rejects all plans, **PPIRP terminates** ❌

### ◆ 28.14 CLOSURE OF PPIRP ← 🏁

PPIRP ends in the following scenarios:

 END Reason	 Condition
i.	AA approves either BRP or BAP ✅
ii.	No resolution plan submitted within <b>90 days</b> ⌚
iii.	AA rejects resolution plan ❌
iv.	RP files for termination and CoC approves with <b>66% vote</b> 🛑

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v.	CoC with <b>66% vote</b> opts to convert to CIRP (if CD is eligible) 
vi.	No plan approved or plan doesn't change management, and AA had vested management with RP under <b>Sec 54J</b> 

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