

How to prepare for Limited Insolvency Examination under IBC, 2016

– Some Practical Tips



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efore I give the preparation tips for Limited Insolvency Examination under Insolvency and Bankruptcy Code 2016 (IBC, 2016 or Code), as some of the readers are new to subject, a brief of Insolvency and Bankruptcy Code 2016 is as follows:

The preamble of the IBC, 2016 states that the Code consolidates and amends the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of these persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders.

1. It envisages specific roles for each of the stakeholders comprising debtors and creditors (*financial & operational creditors*).
2. It provides for the ecosystem comprising Adjudicating Authorities (AAs): *National Company Law Tribunal (NCLT) for Corporate Persons and Debt Recovery Tribunal (DRT) for individuals and Partnership firms*, Insolvency and Bankruptcy Board of India (IBBI), Insolvency Professional Agencies (IPAs), Insolvency Professionals (IPs) and Information Utilities (IUs).
3. It provides time bound insolvency resolution process— 180 days after the process is initiated, maximum

ONE TIME extension up to 90-days— for resolving insolvency.

4. However, insolvency resolution of every corporate may not entail the same level of complexity and some could be resolved earlier. Therefore, it also provides for FAST TRACK INSOLVENCY RESOLUTION PROCESS for certain categories of corporate for 90 days after the process is initiated, maximum ONE TIME extension up to 45-days.
5. **Appellate Authorities:For Corporate Persons (Companies & LLPs)** - *National Company Law Appellate Tribunal (NCLAT) and for Individuals and Partnership Firms-Debt Recovery Appellate Tribunal (DRAT).Civil court shall not have jurisdiction.The appeal to Supreme Court against the order of NCLAT and DRAT can be made on a question of law arising out of such order.*
6. The Interim Resolution Professional (IRP) runs the operations of corporate person as a going concern up to 30 days during which he collects the claims and based on the same, forms a committee of creditors, which decides what to do with the corporate person.
7. Committee of Creditors (CoC) either to ratify the appointment of IRP and appoint him as Resolution Professional (RP) or replace him with another RP.
8. If the insolvency is resolvable, the CoC approves a resolution plan within 180 days with 75% majority.

9. If before the expiry of the insolvency process, the Adjudicating Authority (AA) does not receive Resolution Plan; or AA rejects Resolution Plan for non-compliance of requirements specified by the Board; or Resolution Professional before the confirmation of Resolution Plan intimate the decision of CoC to AA to liquidate, or if approved Resolution Plan has been contravened by any stakeholders (Corporate Debtor, Creditors, Employees or other person who is a party to Resolution Plan), the AA passes the liquidation order against the corporate debtor.

Limited Insolvency Examination

The *Cost Accountant* having 10 years post membership experience (*either in practice or employment*) amongst other professionals having 10 years post membership experience and graduates who are having 15 years of experience in management, are eligible to enrol and register as *Insolvency Professional* after passing the Limited Insolvency Examination. The registration as Insolvency Professional with *Insolvency and Bankruptcy Board of India (IBBI)* is possible only, after enrolment as professional member with any of the Insolvency Professional Agencies in India. The Institute has also incorporated a section 8 company namely "*Insolvency Professional Agency of Institute of Cost Accountants of India*" (IPA ICAI) to enrol and register any person meeting the eligibility criteria for registration with IBBI and regulate its professional members as per the provisions of IBC 2016, Rules and Regulations framed thereunder.

The IBBI has notified **two Syllabi****First:** applicable from 31st December 2016 to June 2017 and **Second:** applicable from 1st July 2017 to 31st December 2017. The first syllabus covers Acts/IBC 2016, Rules and Regulations notified under IBC 2016 relating to Limited Insolvency Examination (LIE) upto 30th November 2016 while the second syllabus is very comprehensive and covers Acts/IBC 2016, Rules and Regulations notified under IBC 2016 relating to Limited Insolvency Examination up to 30th June 2017.

For ready reference, both the syllabi are given below:

Syllabus: Applicable from 31st December 2016 to 30th June 2017

Sl. No	Coverage	Weight (%)
a.	The Insolvency and Bankruptcy Code, 2016 (Entire Code)	30
b.	Rules and Regulations under the Bankruptcy Code (All Rules and Regulations notified under the Code till 30th November, 2016)	25
c.	Report of the Bankruptcy Law Reforms Committee (Entire Report)	05
d.	<p>(I) The Companies Act, 2013</p> <ul style="list-style-type: none"> • Chapter III Prospectus and Allotment of Securities • Chapter IV Share Capital and Debentures • Chapter V Acceptance of Deposits by Companies • Chapter VI Registration of Charges • Chapter VII Management and Administration • Chapter IX Accounts of Companies • Chapter XV Compromises, Arrangements and Amalgamations • Chapter XVII Registered Valuers • Chapter XVIII Removal of names of the companies from the register of companies • Chapter XX Winding-up of the companies • Chapter XXVII NCLT and NCLAT <p>(II) The Partnership Act, 1932, and (III) The Limited Liability Partnership Act, 2008 <i>(Nature of LLP; Partners and their Relations; Limitation of Liability; Financial Disclosures)</i></p>	10
e.	<p>(i) The Indian Contracts Act, 1872 (<i>Void, Voidable and Contingent Contracts; Novation, Rescission and Alteration of Contracts; Damages for breach; Indemnity, Guarantee, Surety, Bailment and Pledge; Set off</i>)</p> <p>(II) Transfer of Property Act, 1882; (III) The Sale of Goods Act, 1930 (<i>Sale, Warranties, Lien and Damages</i>).</p>	05
f.	<p>(I) The Recovery of Debts due to Banks and Financial Institutions Act, 1993;</p> <p>(II) The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002; and</p> <p>(III) Corporate Debt Restructuring Scheme, Strategic Debt Restructuring, and Scheme for Sustainable Structuring of Stressed Assets (S4A) (of RBI)</p>	05
g.	General Awareness (<i>Constitution, Economy, Finance, Code of Conduct for Insolvency Professionals, and Rights of Workmen</i>)	05
h.	Finance and Accounts (Corporate Finance, and Financial Analysis)	05

Sl. No	Coverage	Weight (%)
i.	Case Study (Cases on Corporate Insolvency Resolution, Corporate Liquidation, Fresh Start, Individual Insolvency Resolution and Individual Bankruptcy)	10
Total		100

Syllabus: Applicable from **1st July 2017 to 31st December 2017**

Sl. No	Coverage	Weight (%)
a.	The Insolvency and Bankruptcy Code, 2016	25
b.	Rules and Regulations under the Bankruptcy Code (All Rules and Regulations notified under the Code till 30th June, 2017)	28
c.	(I) The Companies Act, 2013 (II) The Partnership Act, 1932, and (III) The Limited Liability Partnership Act, 2008	10
d.	(I) The Indian Contracts Act, (II) Transfer of Property Act, 1882; (III) The Sale of Goods Act, 1930	04
e.	(I) The Recovery of Debts due to Banks and Financial Institutions Act, 1993; (II) The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002; and (III) Corporate Debt Restructuring Scheme, Strategic Debt Restructuring, and Scheme for Sustainable Structuring of Stressed Assets (S4A of RBI)	05
f.	General Awareness (Constitution, Economy, Financial Markets and Rights of Workmen)	04
g.	Finance and Accounts (Corporate Finance, and Financial Analysis)	04
h.	Case Laws (Decisions of Supreme Court, High Courts, NCLAT, NCLT on Corporate Insolvency Resolution, Corporate Liquidation and Voluntary Liquidation.) There will be five questions carrying two marks each.	10
i.	Case Study on Corporate Insolvency Resolution, Corporate Liquidation, Voluntary Liquidation, Fast Track Resolution, Fresh Start, Individual Insolvency Resolution and Individual Bankruptcy. There will be one comprehension narrating the case study and there will be five questions based on the case carrying two marks each.	10

The format of examination is as under:

- The examination is **conducted online** (computer-based in a proctored environment); **with objective multiple choice questions**;
- The duration of the examination is **two hours**;
- A candidate is required to answer 90 questions in two hours for a total of 100 marks;
- There is **anegative marking** of

25% of the marks assigned for the question;

- Passing mark for the examination is 60%**;
- Passing candidates is awarded a certificate by the Board;
- A candidate is issued a temporary mark sheet on submission of examination paper; and

Frequency of Examination

- The examination is available at 100 + locations in the country

- between 9:30 AM and 5:30 PM;
- A candidate needs to enrol for examination at www.nism.ac.in. Link is provided on IBBI: www.ibbi.gov.in and also on IPA website: www.ipaicmai.in
- Before enrolling for examination, please ready with soft copy of your photograph and scan copies of PAN and Aadhar to enable you to enrol for the examination; and
- You need to pay examination

fee of Rs.1000/- (Rupees one thousand only) online on every enrolment.

- e. There is no limit on numbers of attempts for qualifying the limited insolvency examination.

Examination Preparation Tips for the syllabus applicable from 31st December 2016 to 30th June 2017

The limited insolvency examination tips are based on my experience for this examination which I have qualified in April 2017. The following are tips:

1. Please obtain complete clarity regarding the prescribed syllabus and formulate a specific study plan.
2. Keep reading and re-reading the bare acts of the laws that have been covered under the syllabus. Make notes if necessary.
3. There is no other alternate except to put hard work and understand the contents of examination well. Adhoc approach may not enable you to get the qualifying score for passing the examination.
4. In the notified syllabus for the Limited Insolvency Examination (LIE), maximum weightage (30%) has been given to the Code followed by the Rules and Regulations framed under the Code (25%). Ensure you are very thorough with the Code as well as the Rules and Regulations.
5. Practice as many questions as possible.
6. Solve the sample paper as released by the Insolvency and Bankruptcy Board of India in a time bound manner.
7. While attempting to solve the sample paper released by the Board, grasp and understand the pattern of the questions.
8. **Read those sections, Regulations and Rules which**

prescribe specific time period for any acts, and amount of penalty for various offences under Insolvency Process for Corporate Persons, Individual and Partnership Firms;

9. Memorize the minimum amount of defaults under **Part-II** [Corporate Insolvency Resolution Process (CIRP- Rs. 1 lakh- Section 4)] and **Part-III** (Individual and Partnership- One thousand- Section 78);
10. Know the scope and applicability of Insolvency and Bankruptcy Code 2016 (IBC 2016). **As per Section 1 of the IBC 2016, it extends to whole of India. However, Part-III (Individual and Partnership Firms) shall not extend to state of Jammu & Kashmir.**
11. Read definitions given in Section 3 and Section 5 (under Part-II- Insolvency Process for Corporate Persons) and understand their intent and keep the same in mind while answering objective type questions;
12. Know numbers of Parts in IBC and Chapters which each one contains.
13. **Memorize the maximum amount of default** which can be prescribed by Central Government under Part-II (CIRP- **Rs. 1 crore**-Section 4) and Part-III (Individual and Partnership- **Rs. 1 lakh**-Section 78);
14. Know who can initiate Corporate Insolvency Process. **Most Important**
15. Read Sections 7, 8, 9, and 10 and memorize their provisions. **Don't forget.** Repeat them again and again to retain these provisions in your mind.
16. After memorizing these sections

then go to **“Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016 notified by IBBI on 30th November 2016.V. Important**

- ✓ See the provisions relating to Eligibility of Resolution Professional;
 - ✓ Public Notice (maximum 3 days);
 - ✓ Period for submission of claims and period for their verification
 - ✓ Relevant Forms applicable to each class of Creditors (Financial, Operational, Workmen & Employees)- **CIRP Regulations**
 - ✓ Procedure for constitution of Committee of Creditors (Financial or Operational Creditors)
 - ✓ Notice Period for convening meetings of Committee of Creditors;
 - ✓ Service of Notice by electronic means; Contents of Notice;
 - ✓ Quorum for meetings;
 - ✓ Conduct of meetings and participation through Video conferencing;
 - ✓ Voting Procedure;
 - ✓ Appointment of Registered Valuers for determining Liquidation Value;
 - ✓ Contents of Information Memorandum;
 - ✓ Contents of Resolution Plan, who can submit the Resolution Plan, whether Resolution Applicant attend the meeting and vote thereat;
17. Then memorize and understand Rules relating to filing of application under these sections. **Insolvency and Bankruptcy (Application**

to Adjudicating Authority) Rules 2016 notified by MCA on 30th November 2016 are Very Important.

- ✓ Read said Rules again and again and retain in your memory. **These are very important.**
 - ✓ Memorize different Forms for filing the application with Adjudication Authority (AA): **Form 1** (Section 7), **Form 2** (Written Communication by proposed IRP), **Form 3** (Section 8- Demand Notice/ Invoice demanding payment), **Form 4** (Section 8- Form of Notice with which Invoice to be attached), **Form 5** (Section 9), **Form 6** (Section 10);
 - ✓ **Memorize Rule number** when application can be withdrawn by applicants (**Rule 8**);
 - ✓ Under what Rule an applicant to propose IRP and obtain written Communication from IRP (**Rule 9**), **understand it is written communication and not written consent**;
 - ✓ **Remember till such time Rules of procedure for conduct of proceedings under code are notified, the application for initiating corporate insolvency process is to be filed with NCLT in accordance with Rules 20, 21, 22, 23, 24 and 26 of Part III of National Company Law Tribunal Rules, 2016 (Rule 10)**
 - ✓ **Memorize the Application Fee to be paid by different applicants: Rule 10 & Schedule provides for Fee – FC & Corporate Applicant Rs. 25,000/- and OC Rs. 2,000/-**
18. Read and memorize time period of Insolvency Resolution Process both Normal and Fast Track;
 19. Memorize the contents of Moratorium (Section 14);
 20. Appointment of Interim Resolution Professional- IRP and period of his appointment (Section 16)
 21. Memorize the contents of Management of Affairs (Section 17);
 22. When the first meeting of Committee of Creditors (CoC) should be held (*within 7 days of its constitution*);
 23. Appointment of Resolution Professional-RP (Section 22)- Either appointment of IRP ratified, if not then some other RP is appointed. In this case CoC shall file application to AA for appointment of RP;
 24. Memorize the duties of IRP (Sec. 18) and RP (Sec. 25);
 25. AA to forward name of proposed RP to IBBI for confirmation. **IBBI to confirm within 10 days on receipt of name;**
 26. Can IRP continue after 30 days, in case of delay of confirmation by IBBI, **Answer is Yes. AA by order direct the IRP to continue to function as RP until such time IBBI confirms the name of proposed RP; (Sec. 22(5));**
 27. Memorize the contents of Committee of Creditors (CoC) (Section 24) with reference to IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016;
 28. Memorize what actions of IRP/ RP require approval of CoC (Section 28);
 29. Memorize the contents of Resolution Plan (Sec 30)
 30. Memorize to whom the **approved Resolution Plan**

shall be binding (Sec 31): Corporate Debtor and its employees; members; creditors; guarantor; and other stakeholders involved in the resolution plan;

31. Appeal can be filed by any person aggrieved against the order of Adjudicating Authority (NCLT) within 30 days to National Company Law Appellate Tribunal (NCLAT), which can be extended by NCLAT on sufficient cause not exceeding 15 days (Section 61).

Remember Appeal against NCLT order is to NCLAT not to any other authority (IBBI or Court);

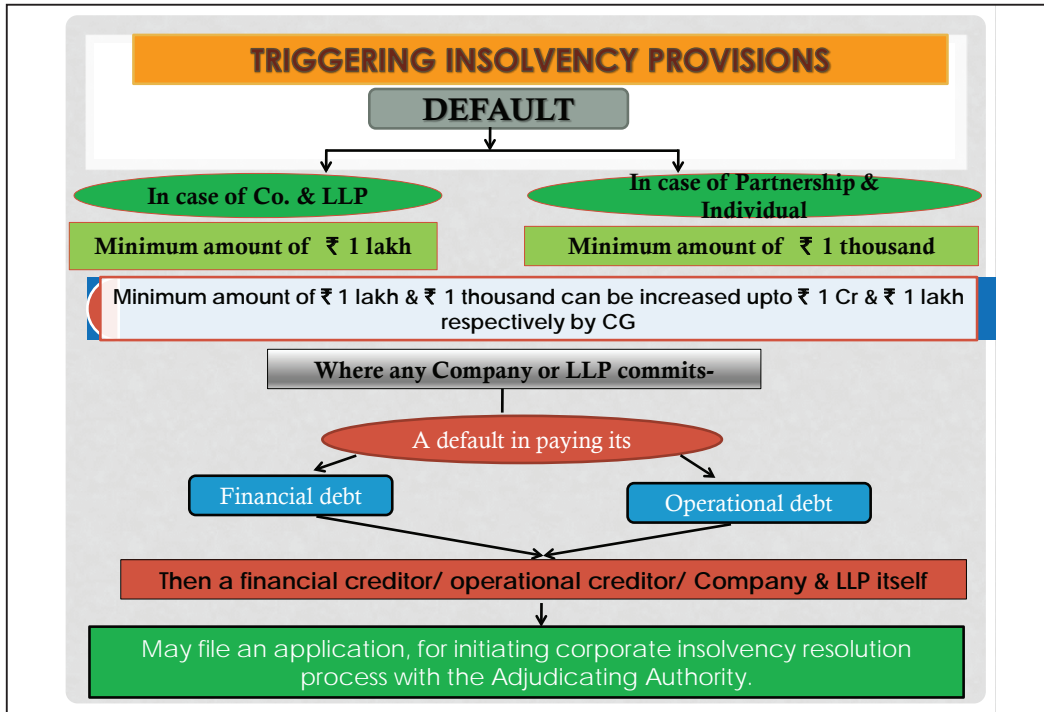
32. **Remember and memorize that an appeal against an order** approving a resolution plan under section 31 may be filed on the following grounds [Section 61(3)]:

- ✓ Approved plan is **in contravention of the provisions of any law** for the time being in force;
- ✓ There has been **material irregularity in exercise of the powers by the resolution professional** during the corporate insolvency resolution period;
- ✓ Debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;
- ✓ Insolvency resolution process costs have not been provided for repayment in priority to all other debts; or
- ✓ Resolution plan does not comply with any other criteria specified by the Board.

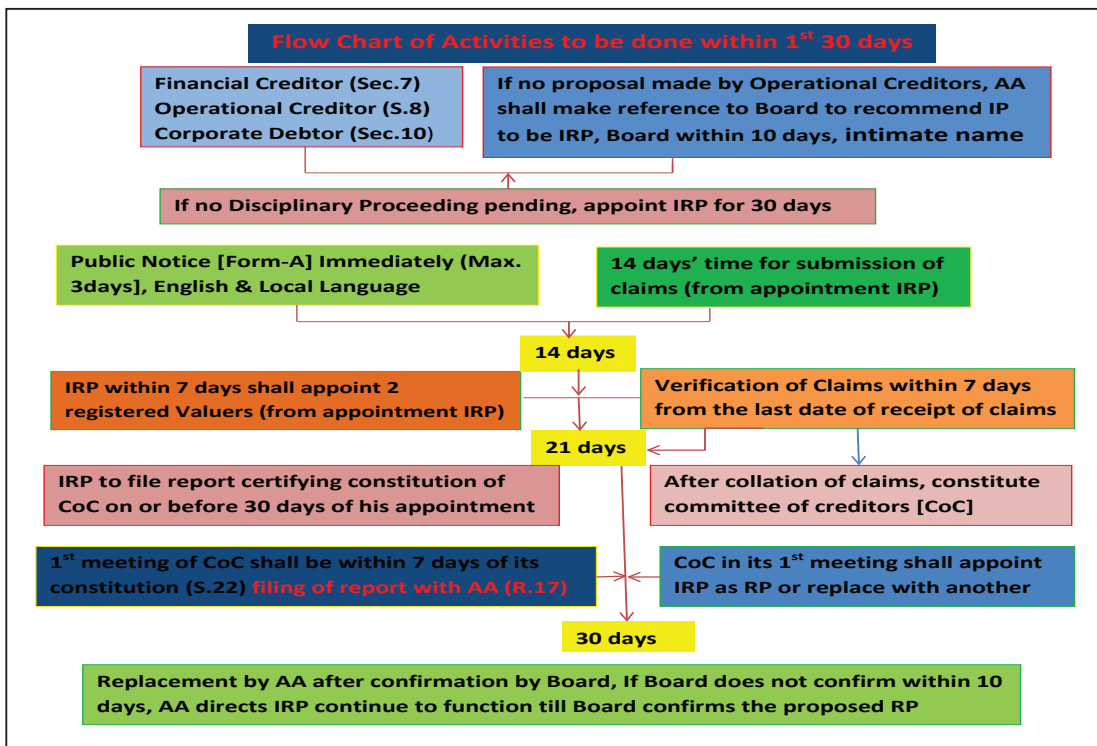
Please remember that an appeal

against a liquidation order passed under section 33 may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order. [Sec. 61(4)]

Triggering of Insolvency Process



Flow Chart of Activities which Interim Resoution Professoinal has to do in 30 days



Forms under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations 2016

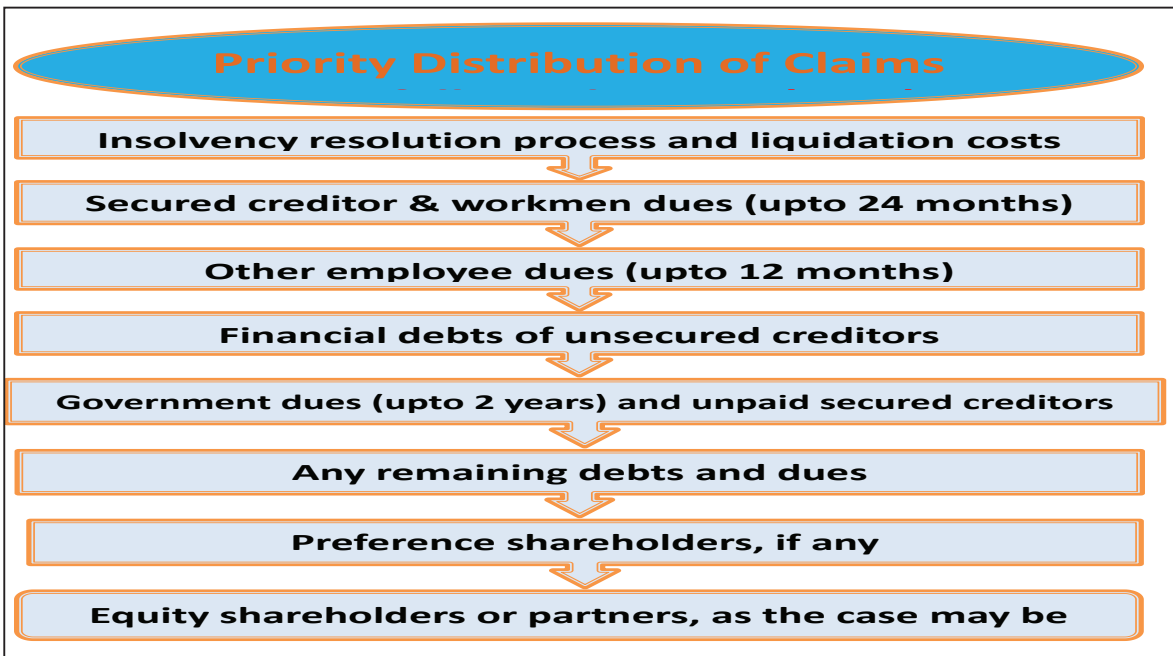
IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016	u/s Reg.6	Form A	Public Announcement
	u/s Reg.7	Form B	Proof of claim by Operational Creditors except workmen and employees
	u/s Reg.8	Form C	Proof of Claim by Financial Creditors
	u/s Reg.9	Form D	Proof of claim by a workmen or employees
	u/s Reg.9	Form E	Proof of claim by Authorised representative of workmen or employees

33. After Corporate Insolvency Process, now read Liquidation Provisions from IBC 2016 (Section 33 to 53). Remember Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016 have been notified by IBBI on 15th December 2016 i.e. after 30th November. (Syllabus is upto 30th November 2016). Don't waste time for reading these regulations;

- 34. Initiation of Liquidation: **Read section 33 carefully and memorize;**
- 35. Appointment of liquidator and fee to be paid section 34: **Read and Memorize;**

- 36. Powers and duties of liquidator (Sec. 35): **Read and Memorize;**
- 37. Liquidation Estate (Sec. 36): **Very important section. Read and memorize;**
- 38. Appeal against the decision of liquidator (Sec. 42): A creditor may appeal to the Adjudicating Authority against the decision of the liquidator rejecting the claims **within fourteen days** of the receipt of such decision. **Please note the appeal is to AA (NCLT) and not to NCLAT or IBBI or court. Please note the time frame;**

- 39. Read and memorize preferential transactions and relevant time (Sec. 43);
- 40. Read and memorize avoidance of undervalued transactions and relevant time (Sec. 44);
- 41. Read and memorize extortionate credit transactions (Sec. 50);
- 42. Read and memorize the distribution of assets and priority of payments (Section 53): **Very Important.** Please refer to following chart:



43. After liquidation now come to **Fast Track Corporate Insolvency Resolution Process (Section 55-58)**. Read only relevant sections of IBC 2016, as their Regulations are yet to be notified by IBBI.

44. Now read and memorize the provisions of Voluntary Liquidation of corporate persons from IBC 2016 (Section 59), Regulations for Voluntary Liquidation have been notified after 30th November 2016. *Don't read them for examination purpose. This is a single section and very important.*

45. **OFFENCES AND PENALTIES** are very important don't leave them and remember and retain in your memory. *In maximum cases the penalties and imprisonment provisions are similar except few. But you have to memorize which offence or provision is different from others. For ready reference the following may be remembered:*

✓ Imprisonment in most of cases is for a term not less than 3 years but which may extend to 5 years; or Fine not less than Rs. 1 lakh, but may extend to Rs. 1 crore or both except the following:

(a) **Imprisonment for a term**

not be less than 1 years but which may extend to 5 years, or fine not less than Rs. 1 lakh but may extend to Rs 1 crore or both for the following offence:

(i) Penalty for an officer of the corporate debtor or the corporate debtor who has made or caused to be made any gift or transfer of, or charge on, or has caused or connived in the execution of a decree or order against, the property of the corporate debtor, on or after the insolvency commencement date.

(ii) Penalty for an officer of the corporate debtor or the corporate debtor who has concealed or removed any part of the property of the corporate debtor within two months before the date of any unsatisfied judgment, decree or order for payment of money obtained against the corporate debtor on or after the insolvency commencement date.

(b) **If an insolvency professional deliberately contravenes the penal provision he shall be punishable with-Imprisonment for a term which may extend to 6 months, or with fine which shall not be less than Rs. 1 lakh, but may extend to Rs.**

5 lakh, or with both. This is only offence which has lower imprisonment and penalty.

46. **Now read the following Regulations:**

(a) IBBI (Insolvency Professionals) Regulations 2016;

(b) IBBI (Insolvency Professional Agencies) Regulations 2016;

(c) IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations 2016;

(d) IBBI (Insolvency Process for Corporate Persons) Regulations 2016;

(e) Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

Summary of each Regulation which is important and should be memorized is follows: All the provisions of regulations, time frame mentioned against each and also the amount for each description are important, retain in your memories.

(a) IBBI (Insolvency Professionals) Regulations 2016: Read all Regulations and memorize who are eligible to apply to become Insolvency Professionals under Regulation No. 4 & 5.

1. Provisions of Regulations of Regulations are summarized (Memorize these provisions).

S NO	Particulars	Regulation	Timeline	Description
1	Application for certificate of Registration	6(1)	7 Days	Board acknowledge the application within 7 days with non-refundable fee of 10000/-.

S NO	Particulars	Regulation	Timeline	Description
2	Certificate of Registration	7(1)	60 Days	Grant certificate of registration to the applicant in Form B, within 60 days of receipt of application
3		7(2)	5 Years	Fee Rupees ten thousand, every five year after year in which certificate is granted.
4		7(2)	3 Years	Maintain Records of all assignments undertaken under the code for at least three years.
5	Refusal to grant certificate	8 (2)	45 Days	Communication within 45 days of receipt of the application for registration ought not granted.
6		8 (2)	15 Days	Applicant an opportunity to explain why his application should be accepted within fifteen days of the receipt of communication.
7		8(3)	30 Days	Within 30 days of receipt of explanation
8	Registration for limited period	9(3)	6 Month	From the date of submission
9	Temporary Surrender	10(1)	7 Days	IPA shall inform the Board (IBBI) if any of its professional members has temporarily surrender the membership
10	Disciplinary Proceedings	11(6)	6 Month	The Disciplinary Committee shall endeavour to dispose of the show-cause notice within a period of six months of the assignments.
11		11(9)	30 Days	The order passed under sub-regulation (7) shall not become effective until thirty days have elapsed from the date of the issue of order unless disciplinary committee states otherwise in order along with the reason for the same.

II. Forms (Memorise these Form Number and Description)

IBBI (Insolvency Professionals) Regulations 2016	U/ s Reg. 6 or 9	Form A	<i>Application for Registration as an Insolvency Professional/ Limited Insolvency Professional</i>
	U/ s Reg. 7	Form B	<i>Certificate of Registration</i>
	U/s Reg. 12	Form C	<i>Application for Recognition as an Insolvency Professional Entity</i>
	U/s Reg. 13	Form D	<i>Certificate of Recognition</i>

(b) IBBI (Insolvency Professional Agencies) Regulations 2016: Read all Regulations and memorize who are eligible to apply to become Insolvency Professional Agencies under Regulation No. 3.

I. Other Provisions of Regulations are summarized (Memorize these provisions)

S. No.	Particulars	Regulation	Timeline	Description
1	Application for registration or renewal	4(3)	7 Days	The Board (IBBI) shall acknowledge the application within seven days.

2	Grant of Registration	5(1)	60 Days	Within 60 Days of receipt of application.
3		5(3)	5 Years	Valid for 5 Years.
4	Surrender of Registration	7(2)	7 Days	With 7 days of receipt of the application, publish a notice of receipt of such application on its website.
5			14 Days	IBBI Invites objections to be submitted in 14 days.
6			30 Days	The Board shall within 30 days from the last date of submission of objection approve the application.
7	Disciplinary Proceedings	8(7)	6 months	Disciplinary Committee shall endeavour to dispose notice within six months.
8	Appeal	9	30 Days	30 Days of receipt of impugned order under Part III of NCLT Rules 2016 (NCLAT).

II. Forms (Memorise these Form Number and Description)

IBBI (Insolvency Professional Agencies) Regulations, 2016	U/s Reg. 4	Form A	Application for Certificate of Registration
	U/s Reg. 5	Form B	Certificate of Registration

(c) IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations 2016: Read all Regulations and memorize all provisions of Bye-Laws, particularly Regulation 5 (Composition of Governing Board), **Schedule** which gives **V. Committees of the Agency; VI. Professional Membership; VIII. Monitoring of Members; IX. Grievance Redressal Mechanism; X. Disciplinary Proceedings; XI. Temporary Surrendering of Professional Membership and Expulsion from Membership.**

I. Other Provisions of Regulations which give time lines are summarized (Memorize these provisions)

S. No	Particulars	Regulation	Time-line	Description
1	Insolvency Professional Agencies to have By-Laws	3(4)	-	Insolvency Professional Agencies to publish its By-Laws, compositions of its Committees formed, and all its policies created under Bye-Laws, on its website.
2		4(2)	7 Days	A Resolution passed shall be filled with the Board (IBBI) within 7 days.
3	Amendment in Bye-Laws	4(3)	7 Days	The amendment to the Bye Laws shall come into effect on seventh day of the receipt of approval unless otherwise specified by the Board.
4		4(4)	15 Days	Printed copy of the amended Bye Laws with the Board within 15 days from the date when such amendment is effective
5	Process of Enrolment to Professional Member	Schedule Clause 10(8)	30 Days	The applicant aggrieved with the decision rejecting his application may prefer appeal to Membership Committee within 30 days.
6		Schedule Clause 10(9)	30 Days	The Membership Committee shall pass an order of disposing of appeal in the manner expedient within 30 days from the receipt of copy of final order.
7	Disciplinary Proceedings	Schedule 25(2)	30 Days	Any person aggrieved of an order of Disciplinary Committee may prefer an appeal before Appellate Panel within 30 Days.

8	Appellate Panel	Schedule Clause 25(3)	30 Days	The Appellate Panel shall dispose of the appeal in the manner it deems expedient within 30 days of receipt of appeal.
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II. Forms (Memorise these Form Number and Description)

IBBI (Model Bye Laws) Regulations	Form A	Certificate of Professional Membership
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47. **Read Establishment and incorporation of Board: (Sec. 188):** Vide S.O. 3110(E) dated 1st October 2016, in exercise of the powers conferred by sub-section (1) and (3) of section 188 of the Insolvency and Bankruptcy Code, 2016, the Central Government hereby appoints **1st October, 2016 as the date of establishment of Insolvency and Bankruptcy Board of India. The head office of the Insolvency and Bankruptcy Board of India shall be at New Delhi.**

Constitution of Board (Sec. 189): [10 members including Chairperson]: Please remember the provision.

Chairperson	1	
Ex-officio (4)	1	Not below the rank of J.S Ministry of Corporate Affairs
	1	Not below the rank of J.S Ministry of Finance
	1	Not below the rank of J.S Ministry of Law
	1	Nominated by RBI
Nominated	3	Whole time member nominated by CG
Nominated	2	Part time member nominated by CG

48. **Appointment of the Chairperson and the members of the Board other than the appointment of an ex officio member [Sec. 189(3)]:** Please read and memorize.

On the recommendation of a selection committee consisting of—

- (a) Cabinet Secretary—Chairperson;
- (b) Secretary to the Government of India to be nominated by the Central Government—Member;
- (c) Chairperson of the Insolvency and Bankruptcy Board of India (in case of selection of members of the Board)—Member;
- (d) three experts of repute from the field of finance, law, management, insolvency and related subjects, to be

nominated by the Central Government—Members.

The term of office of the Chairperson and members (other than ex officio members) shall be five years or till they attain the age of sixty-five years, whichever is earlier, and they shall be eligible for reappointment.

49. Removal of member from office. [Sec. 190]

- (a) The Central Government may remove a member from office if he—
 - is an undischarged bankrupt as defined under Part III;
 - (b) has become physically or mentally incapable of acting as a member;
 - (c) has been convicted of an offence, which in the opinion of the Central Government involves moral turpitude;
 - (d) has, so abused his position as to render his continuation in office detrimental to the

public interest:

Provided that no member shall be removed under clause (d) unless he has been given a reasonable opportunity of being heard in the matter.

50. Read and memorize the principles governing registration of insolvency professional agency [Sec. 200].

51. **Every order for rejection of application for registration of Insolvency Professional Agency by Board, shall be communicated to the applicant within a period of fifteen days.**

Provided that no order shall be made under this subsection unless the insolvency professional agency concerned has been given a reasonable opportunity of

being heard:

Provided further that no such order shall be passed by any member except whole-time members of the Board. [Remember this provision]

52. **Remember appeal for rejection** of application for registration is to National Company Law Appellate Tribunal NCLAT.

53. **Functions of Insolvency Professional Agencies [Sec. 204]:** Read them.

54. **Functions and obligations of insolvency professionals [Sec. 208]:** Read them.

55. **Registration of information utility [Sec. 210]:** Read and memorize the provisions.

56. **Remember appeal for rejection of application for registration is to National Company Law Appellate Tribunal-NCLAT [Sec. 211].**

57. **Obligations of information utility [Sec. 214]:** Read and memorize the provisions.

58. **Procedure for submission, etc., of financial information [Sec. 215]:** Read and memorize the provisions.

59. **INSPECTION AND INVESTIGATION (Chapter VI of Part-IV of IBC 2016): This Chapter is very important, the contents of this chapter should be memorized and retain in memory.**

60. Please remember Code provides for two types of Boards. The purpose of each Board is different. Please read the purpose very carefully.

Board's Fund (Section 222) and Insolvency and Bankruptcy Fund (Section 224).

61. **Bar of jurisdiction (Section 231):** No civil court shall have jurisdiction in respect of any matter in which the Adjudicating Authority is empowered by, or under, this Code 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 such Adjudicating Authority under this Code.

62. **Members, officers and employees of Board to the public servants (Section 232):** Chairperson, Members, officers and other employees ✓ of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Code, **to be public servants within the meaning of section 21 of the Indian Penal Code.**

63. **Protection of action taken in good faith (Section 233):** No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government, or the **Chairperson, Member, officer or other employee of the Board or an insolvency professional or liquidator** for anything which is done or intended to be done in good faith under this Code or the rules or regulations made thereunder.

64. **Trial of offences by Special Court. (Section 235):** Notwithstanding anything in the Code of Criminal Procedure, 1973, **offences under this Code shall be tried by the**

Special Court established under Chapter XXVIII of the Companies Act, 2013. (Note this provision and remember).

65. **Appeal and revision (Section 237):** High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

66. **Provisions of this Code to override other laws (Section 238):** Provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

67. **Rules and regulations to be laid before Parliament (Section 241):** Please read the provisions and retain in your memory.

68. **Section 243:** The following Acts have been repealed: (a) The Presidency Towns Insolvency Act, 1909; and The Provincial Insolvency Act, 1920.

69. The following Acts have been amended (**Please remember the following sections of IBC 2016 and schedule numbers**)

✓ **Section 245: Indian Partnership Act, 1932,** amended as per **First Schedule** Section 41(a) omitted.

✓ **Section 246: Central**

Excise Act, 1944; amended as per **Second Schedule, Section 11E** amended.

✓ **Section 247: Income Tax Act, 1961;** amended as per **Third Schedule, Section 178(6)** amended.

✓ **Section 248: Customs Act, 1962;** amended as per **Fourth Schedule, Section 142A** amended.

✓ **Section 249: Recovery of Debt Due to Banks and Financial Institution Act, 1993;** amended as per **fifth Schedule.**

✓ **Section 250: The Finance Act, 1994;** amended as per **sixth Schedule, Section 88** amended.

✓ **Section 251: The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;** amended as per **Seventh Schedule.**

✓ **Section 252: The Sick Industrial Companies (Special Provisions) Act, 1985;** amended as per **eighth Schedule, Section 4(b)** substituted.

✓ **Section 253: The Payment and Settlement Systems Act, 2007;** amended as per **Ninth Schedule, Section 23(4), 23(5), 23(6) and 23A(3)** amended;

✓ **Section 254: The Limited Liability Partnership Act, 2008;** amended as per **Tenth Schedule, Section 64, Clause (c)** omitted; and

✓ **Section 255: The Companies Act, 2013.** Amended as per **Eleventh Schedule.**

70. Now come to Individuals and Partnership Insolvency Process (Section 79 to 187);

71. Please read the definitions- Section 79 and should be able to recall when the question is asked on the provision of a section;

72. Fresh Start Process: Memorize the conditions for start process: For ready reference it is given below:

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 —

✓ the gross annual income of the debtor does not exceed sixty thousand rupees;

✓ the aggregate value of the assets of the debtor does not exceed twenty thousand rupees;

✓ the aggregate value of the qualifying debts does not exceed thirty-five thousand rupees;

✓ he is not an undischarged bankrupt;

✓ he does not own a dwelling unit, irrespective of whether it is encumbered or not;

✓ a fresh start process, insolvency resolution process or bankruptcy process is not subsisting against him; and

✓ no previous fresh start order under this Chapter has been made in relation to him in the preceding twelve months of the date of the application for fresh start.

73. Read all the provisions of Sections 80-93.

74. Read provisions relating to “Insolvency Resolution Process” Section 94- 120.

75. Read provisions relating to Bankruptcy of individuals and Partnership.

76. Read provisions of Offences and Penalties

Section 184-187. Don't leave provisions of offences and penalties as these are important.

77. Please remember as mentioned in the beginning that study those provisions which have specific timeline and penalty.

78. Read and memorize important provisions of Report of Bankruptcy Law Reforms Committee (BLRC Report). Refer Note@

79. Read the provisions relating to Chapter XXVII NCLT and NCLAT from the Companies Act, 2013. Summarized position is given below:

✓ In the first phase the Ministry of Corporate Affairs have set up eleven Benches:

● **One Principal Bench** at New Delhi; and

● **Ten Benches** at New Delhi, Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai.

● These Benches will be headed by the President and 16 Judicial Members and 09 Technical Members at different locations.

● National Company Law Tribunal ('NCLT') and its appellate body, the National Company Law Appellate Tribunal ('NCLAT') have been constituted under sections 408 and 410 of the Companies Act, 2013 ('Act') with effect from June 1, 2016.

NCLT has all such powers as were being exercised by the erstwhile Company Law Board ('CLB'), the High Court and the Board for Industrial and Financial Reconstruction ('BIFR'). CLB and BIFR have already been dissolved.

Qualification of President and member of NCLT	
President	Judge of High Court for last 5 Years
Judicial Member	Has been a judge of high court
	District Judge for last 5 Years
	Advocate for 10 years
Qualification of Technical Member	
15 Years been a member of Indian Corporate Law Service or Indian Legal service and has been holding the rank of secretary or additional secretary	
Chartered Accountant for 15 years practice	
Cost Accountant for 15 years practice	
Company Secretary for 15 years practice	
Is a person of proven ability and special knowledge and experience of not less than 15 years in industrial law, industrial management, industrial reconstruction, investment and accountancy	
5 Years as Presiding officer of Labour Court Labour / National Tribunal	
Term	President 5 Years or 67 years
	Member 5 Years or 65 years
But not below 50 years	
Bench	2 Member 1 Technical, 1 Judicial
Special Bench	3 or more By majority of judicial member
For revival, restructuring and rehabilitation	
Modification of order	Within 2 Years provided no amendment on such order filled under appeal
Appeal	45 days from the date of copy of order made available to the person so aggrieved, further extension of 45 days
Disposal of case	3 Month from the date of application or appeal, further extension 90 days
Status	Civil Court under Chapter XXVI of Code of Criminal Procedure, 1973
NCLAT	
Chairperson	Judge of Supreme Court or Chief Justice of High Court
Judicial Member	Has been a Judge of High Court or
	Judicial Member of Tribunal for 5 years
Technical Member	A person of proven ability and special knowledge and experience of not less than 25 years in industrial law, industrial management, industrial reconstruction, investment and accountancy
The President of Tribunal and the Chairperson and Judicial Members of the Appellate Tribunal shall be appointed after consultation with the Chief Justice of India	
Members of Tribunal and Technical Members of Appellate Tribunal shall be appointed on recommendation of Selection Committee of	
Chairperson	Chief Justice of India or his nominee
Member	(a) A Senior Judge of Supreme Court or Chief Justice of High Court
	(b) Secretary of Ministry of Corporate Affairs

	(c) Secretary of Ministry of Law And Justice
	(d) Secretary of Ministry of Corporate Affairs , he shall also be convener and
	(e) Secretary in the Department of Financial Services in the Ministry of Finance
Terms	
Chairperson	5 Years or 70 years
Member	5 Years or 67 years
No appointment shall be invalid merely discrepancy in constitution of committee or vacancy	

80. Read the provisions relating to **Chapter XVII Registered Valuers of the Companies Act, 2013, which is summarized below:**

Section 247(2): The **valuer** appointed under sub-section (1) shall,—

- (a) make an impartial, true and fair valuation of any assets which may be required to be valued;
- (b) exercise due diligence while performing the functions as valuer;
- (c) make the valuation in accordance with such rules as may be prescribed; and
- (d) **not undertake valuation of any assets in which he has a direct or indirect interest or becomes so interested at any time during or after the valuation of assets.**

Punishment for contravention of provisions of section 247: A fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

In contravention with the intention to defraud the company or its members, he shall be punishable with **imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.**

Section 247(4): Where a valuer has been convicted under sub-section

(3), he shall be liable to—

- (i) refund the remuneration received by him to the company; and
- (ii) pay for damages to the company or to any other person for loss arising out of incorrect or misleading statements of particulars made in his report.

81. Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI). Read section 2(i)(j): **meaning of Default; Conditions: Section 13, Cases where SARFAESI Act does not apply; ARCs and Adjudicating Authority.**

82. Read the following matters of RBI and memorize the provisions:

- ✓ Corporate Debt Restructuring Scheme;
- ✓ Joint Lenders Forum (JLF);
- ✓ Strategic Debt Restructuring;
- ✓ and Scheme for Sustainable Structuring of Stressed Assets (S4A)
- ✓ Read the Reserve Bank Monetary Policy and memorise Repo rate, Reverse Repo Rate, SLR Rate, CRR, Base Rate, Call Rate, Bank Rate etc.


83. Have the understanding of General Awareness

(Constitution, Economy, Finance, Code of Conduct for Insolvency Professionals, and Rights of Workmen).

84. Financial Ratio Analysis most importantly how to calculate EPS and diluted EPS.

85. See the applicability of provisions relating to Workmen in the following Acts:

- ✓ Factory Act, 1948
- ✓ Employees' Provident Fund and Miscellaneous Provisions Act, 1952
- ✓ The ESI Act 1948
- ✓ The Industrial Dispute Act, 1947
- ✓ The Contract Labour Regulation and Abolition Act, 1970
- ✓ The Payment of Bonus Act, 1965

Important Note: The author had made a presentation through Webinar: **“How to prepare for Limited Insolvency Examination- Some Practical Aspects”** which was held at the Institute of Cost Accountants of India platform on 9th May 2017. Detailed presentation which contains 170 slides gives provisions and other matters relating to “How to prepare for Limited Insolvency Examination- Some Practical Aspects” and can be downloaded from IPA of Institute website: www.ipaicmai.in. 

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