

Amendments carried out through the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021

1. The provisions related to pre-packaged insolvency resolution process are as Chapter IIIA in Part II of the Code.
2. The pre-packaged insolvency resolution process shall be available only for micro, small or medium enterprises (MSMEs). (Section 54A)
3. Amend section 4 of the Code to insert a new proviso giving power to the Central Government to specify a different minimum amount of default for initiation of the pre-packaged insolvency resolution process subject to a maximum of ₹1 crore.
4. Section 5 of the Code to be amended to make consequential changes to various definitions and insertion of new definitions for the pre-packaged insolvency resolution process.
5. Amend section 11 to make changes pursuant to the inclusion of Chapter IIIA to disentitle certain persons from filing an application for initiating corporate insolvency resolution process.
6. Insert a new section 11A to provide the manner of disposal of simultaneous applications for initiation of pre-packaged insolvency resolution process and corporate insolvency resolution process, pending against the same corporate debtor.
7. Sections 33 and 34 are to be amended to provide for passing of liquidation order in case of violation of the resolution plan approved by the Adjudicating Authority. The insolvency professional to be appointed as the resolution professional shall be proposed and approved by unrelated financial creditors. (Section 54A)
8. The management of corporate debtors shall issue a declaration for initiating pre-packaged insolvency resolution process and the members or partners shall pass an appropriate resolution to that effect. (Section 54A)
9. The unrelated financial creditors by vote of not less than sixty-six per cent in value of the financial debt due to them, shall approve initiation of this process and the corporate debtor shall share a base resolution plan with such creditors at this stage. (Section 54A)
10. The insolvency professional will perform the required duties, which will commence from the date on which his name is proposed in the declaration and approved by the unrelated financial creditors. (Section 54B)
11. Adjudicating Authority shall either admit or reject the application for initiation of pre-pack within fourteen days from the date of filing of the application. (Section 54C)
12. The pre-packaged insolvency resolution process will be completed within one hundred and twenty days out of which ninety days' time has been given to the

resolution professional to file the resolution plan with the Adjudicating Authority and thirty days time has been given to the Adjudicating Authority to approve the resolution plan. If no resolution plan is approved by the committee of creditors, then the resolution professional shall apply to the Adjudicating Authority to terminate the pre-packaged insolvency resolution process. (Section 54D)

13. The Adjudicating Authority shall declare a moratorium and the provisions of section 14(1) and (3) shall apply during the pre-packaged insolvency resolution process.
14. The Adjudicating Authority shall appoint the resolution professional and cause a public announcement to be made by him. (Section 54E)
15. The resolution professional shall conduct the pre-packaged insolvency resolution process, perform and exercise the required duties and powers and the management of the corporate debtor shall extend all assistance and cooperation to the resolution professional during the process.
16. The fees and expenses of the resolution professional shall be subject to limits or conditions imposed by the committee of creditors. (Section 54F)
17. The corporate debtor shall submit the list of claims and preliminary information memorandum and persons responsible for any omission of any material information or inclusion of any misleading information thereof shall be liable to pay compensation to persons sustaining any loss or damage. (Section 54G)
18. The management of affairs of the corporate debtor shall continue to be vested with the Board of Directors or the partners, subject to certain conditions and restrictions. (Section 54H)
19. The committee of creditors is to be constituted by the resolution professional based on the list of claims confirmed by him. (Section 54I)
20. The Adjudicating Authority shall pass an order vesting the management of the corporate debtor with the resolution professional if the affairs of the corporate debtor are carried out in a fraudulent manner or if there has been gross mismanagement. (Section 54J).
21. The committee of creditors may approve the base resolution plan submitted by the corporate debtor if it provides for the full payment of the claims of operational creditors. If the base resolution plan does not provide for such full payment or is not approved by the committee of creditors, prospective resolution applicants shall be invited to submit resolution plans. The resolution plan selected by the committee of creditors pursuant to such invitation is to compete with the base resolution plan, and accordingly, a resolution plan may be approved by the committee of creditors. Where the base resolution plan of the corporate debtor is being approved and does not provide for full payment of claims of the creditors, the committee of creditors may consider dilution of rights of the promoters in the corporate debtor and otherwise, provide reasons for the same. The provisions of Sections 29 and 30(1), (2) and (5) are to apply to the pre-packaged insolvency resolution process. (Section 54K).

22. If an order vesting the management of the corporate debtor with the resolution professional has been passed and the resolution plan approved by the committee of creditors does not provide for a change in management or control of the corporate debtor, the Adjudicating Authority will pass a liquidation order. (Section 54L).
23. The order of the Adjudicating Authority approving a resolution plan may be appealed on the grounds mentioned in Section 61(3). (Section 54M).
24. The Adjudicating Authority shall pass an order terminating the pre-packaged insolvency resolution process if the committee of creditors approves such termination by a vote of sixty six percent of its voting share. (Section 54N).
25. The committee of creditors may decide to initiate a corporate insolvency resolution process against an eligible corporate debtor by a vote of sixty six percent of its voting share. (Section 54-O).
26. Certain provisions of Chapter II and Chapters III, VI and VII are to apply to Chapter IIIA for the pre-packaged insolvency resolution process with suitable modifications (Section 54P).
27. Amend Section 61 to provide for appeal against the liquidation order and the order for initiation of corporate insolvency resolution process passed during pre-packaged insolvency resolution process under Chapter IIIA.
28. Amend Section 65 to insert a penalty for fraudulent or malicious initiation of pre-packaged insolvency resolution process.
29. During the pre-packaged insolvency resolution process, where an officer of the corporate debtor manages its affairs with the intent to defraud its creditors or for any fraudulent purpose, penalty may be imposed upon such officer. (Section 67A).
30. Explanation to Section 77 is to be omitted as a similar explanation has been added to the new section 77A of the Code.
31. To provide punishment for offences related to pre-packaged insolvency resolution process. (Section 77A).
32. Amend section 208 to insert actions taken by the resolution professional during the pre-packaged insolvency resolution process and actions taken before the initiation of pre-packaged insolvency resolution process.
33. In view of the above amendments, consequential changes are to be made to Sections 239 and 240 of the Code for ensuring enabling provisions for framing rules and regulations.
34. Amend Section 240A to apply exemptions of Section 29A for micro, small and medium enterprises to the pre-packaged insolvency resolution process.