

The Insolvency and Bankruptcy Code (Amendment) Act, 2020 w.e.f 28.12.2019

[Access amended section here.](#)

The Insolvency and Bankruptcy Code (Amendment) Bill, 2020 was passed by voice vote in Rajya Sabha on 12.03.2020. It was approved by Lok Sabha on March 6. The Bill replaces an [ordinance](#) promulgated in December, 2019.

Statement of Objects and Reasons of the Bill as under:

The Insolvency and Bankruptcy Code, 2016 (the Code) was enacted with a view to consolidate and amend 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 such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order or priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India.

2. A need was felt to give the highest priority in repayment to last mile funding to corporate debtors to prevent insolvency, in case the company goes into corporate insolvency resolution process or liquidation, to prevent potential abuse of the Code by certain classes of financial creditors, to provide immunity against prosecution of the corporate debtor and action against the property of the corporate debtor and the successful resolution applicant subject to fulfilment of certain conditions, and in order to fill the critical gaps in the corporate insolvency framework, it has become necessary to amend certain provisions of the Insolvency and Bankruptcy Code, 2016.

3. The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019, inter alia, provides for the following, namely:—

(i) to omit the proviso to clause (12) of section 5 of the Code so as to clarify that the insolvency commencement date is the date of admission of an application for initiating corporate insolvency resolution process;

(ii) to amend section 7 of the Code to insert certain provisos specifying a minimum threshold for certain classes of financial creditors for initiating insolvency resolution process;

(iii) to amend section 11 of the Code so as to clarify that a corporate debtor should not be prevented from filing an application for initiation of corporate insolvency resolution process against other corporate debtors;

(iv) to amend section 14 of the Code to clarify that a licence, permit, registration, quota, concession, clearances or a similar grant or right cannot be terminated or suspended during the Moratorium period;

(v) to amend section 16 of the Code so as to provide that an insolvency resolution professional should be appointed on the date of admission of the application for initiation of insolvency resolution process;

(vi) to amend section 23 of the Code to enable the “resolution professional” to manage the

affairs of the corporate debtor during interim period between the expiry of corporate insolvency resolution process till the appointment of a liquidator;

(vii) to insert a new section 32A so as to provide that the liability of a corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease under certain circumstances;

(viii) to amend section 227 of the Code so as to clarify that the insolvency and liquidation proceedings for financial service providers may be conducted with such modifications and in such manner as may be prescribed; and

(ix) the other amendments which are of consequential in nature.

4. The Bill seeks to achieve the above objectives.

[The Insolvency and Bankruptcy Code \(Amendment\) Act, 2020Download](#)

[The Insolvency and Bankruptcy Code \(Amendment\) Ordinance, 2019 28.12.2019Download](#)

[The Insolvency and Bankruptcy Code \(Second Amendment\) Bill, 2019Download](#)

[Standing Committee Report - IBC \(2nd Amendment\) Bill, 2019Download](#)

- - -

Disclaimer: While every effort is made to avoid any mistake or omission, this document including case-summary/brief about the decision/ add. info/headnote/ judgment/order/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this document. The authenticity of this text must be verified from the original source. Read more [here](#).