

23क. जहां किसी दिवाला व्यावसायिक ने किसी कारपोरेट दिवाला समाधान प्रक्रिया का संचालन किया है वहां वह और उसके नातेदार, ऐसे किसी लेनदार, जिसकी मतदान शक्ति दस प्रतिशत से अधिक है, सफल समाधान आवेदक, कारपोरेट ऋणी या उनसे संबद्ध किसी पक्षकार को, संहिता के अधीन दी जाने वाली सेवाओं से भिन्न कोई व्यावसायिक सेवाएं प्रदान नहीं करेंगे या खुली प्रतियोगिता भर्ती के माध्यम से प्राप्त नियोजन से भिन्न कोई नियोजन तब तक स्वीकार नहीं करेंगे जब तक ऐसी प्रक्रिया से उसके विराम की तारीख से एक वर्ष की अवधि व्यतीत न हो गई हो।

23ख. कोई दिवाला व्यावसायिक, अपने किसी नियत कार्य से संबंधित किसी कार्य के लिए या उसके संबंध में अपने किसी नातेदार या संबद्ध पक्षकार को नहीं लगाएगा या नियुक्त करेगा।

23ग. कोई दिवाला व्यावसायिक, ऐसे किसी नियत कार्य के लिए या उसके संबंध में, जो उसके किसी नातेदार या संबद्ध पक्षकार द्वारा किया जा रहा है, कोई सेवा उपलब्ध नहीं कराएगा।

**स्पष्टीकरण** – खंड 23क से 23ग के प्रयोजनार्थ, “संबद्ध पक्षकार” का वही अर्थ होगा जो धारा 5 के खंड (24क) में उसका है किन्तु इसके अंतर्गत ऐसी दिवाला व्यावसायिक संस्था नहीं आती है, जिसका दिवाला व्यावसायिक एक भागीदार या निदेशक है।”

डॉ. एम. एस. साहू, अध्यक्ष

[विज्ञापन-III/4/असा./143/19]

**टिप्पण:** भारतीय दिवाला और शोधन अक्षमता बोर्ड (दिवाला व्यावसायिक) विनियमन, 2016, भारत के राजपत्र, असाधारण, भाग III, खंड 4, सं. 424, तारीख 23 नवम्बर, 2016 में अधिसूचना सं. आई.बी.बी.आई./2016-17/जी.एन./आर.ई.जी.003, तारीख 23 नवम्बर, 2016 द्वारा प्रकाशित किए गए थे और तत्पश्चात् -

(1) भारत के राजपत्र, असाधारण, भाग III, खंड 4, सं. 125, तारीख 28 मार्च, 2018 में अधिसूचना सं. आई.बी.बी.आई./2017-18/जी.एन./आर.ई.जी.027, तारीख 27 मार्च, 2018 द्वारा प्रकाशित भारतीय दिवाला और शोधन अक्षमता बोर्ड (दिवाला व्यावसायिक) (संशोधन) विनियम, 2018; और

(2) भारत के राजपत्र, असाधारण, भाग III, खंड 4, सं. 384, तारीख 11 अक्तूबर, 2018 में अधिसूचना सं. आई.बी.बी.आई./2018-19/जी.एन./आर.ई.जी.036, तारीख 11 अक्तूबर, 2018 द्वारा प्रकाशित भारतीय दिवाला और शोधन अक्षमता बोर्ड (दिवाला व्यावसायिक) (दूसरा संशोधन) विनियम, 2018 द्वारा उनमें संशोधन किए गए।

## INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

### NOTIFICATION

New Delhi, the 23rd July, 2019

#### Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2019

**F. No. IBBI/2019-20/GN/REG045.**—In exercise of the powers conferred by sections 196, 207 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations further to amend the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, namely: -

1. (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2019.

(2) They shall come into force on the date of publication in the Official Gazette.

2. In the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (hereinafter referred to as the principal regulations), in regulation 2, in sub-regulation (1), for clause (a), the following clauses shall be substituted, namely:-

(a) “assignment” means any assignment of an insolvency professional as interim resolution professional, resolution professional, liquidator, bankruptcy trustee, authorised representative or in any other role under the Code;

(aa) “authorisation for assignment” means an authorisation to undertake an assignment, issued by an insolvency professional agency to an insolvency professional, who is its professional member, in accordance with its bye-laws;

(ab) “Bar Council” means a Bar Council constituted under the Advocates Act, 1961 (25 of 1961);’.

3. In the principal regulations, after regulation 7, the following regulation shall be inserted, namely: -

**“Authorisation for assignment.**

7A. An insolvency professional shall not accept or undertake an assignment after 31<sup>st</sup> December, 2019 unless he holds a valid authorisation for assignment on the date of such acceptance or commencement of such assignment, as the case may be:

Provided that provisions of this regulation shall not apply to an assignment which an insolvency professional is undertaking as on-

- (a) 31<sup>st</sup> December, 2019; or
- (b) the date of expiry of his authorisation for assignment.”.

4. In the principal regulations, for Chapter heading IV, the following Chapter heading shall be substituted, namely:-

**“CHAPTER IV**

**ISSUE AND SURRENDER OF AUTHORISATION FOR ASSIGNMENT AND DISCIPLINARY PROCEEDINGS”.**

5. In the principal regulations, in regulation 10, for sub-regulation (1), the following sub-regulation shall be substituted, namely: -

“(1) An insolvency professional agency shall inform the Board when it-

- (a) issues or renews an authorisation for assignment;
- (b) suspends or cancels an authorisation for assignment;
- (c) revokes the suspension of an authorisation for assignment; or
- (d) accepts the surrender of an authorisation for assignment,

within one working day of taking such action.”.

6. In the principal regulations, in regulation 11, in sub-regulation (8), after clause (b), the following clause shall be inserted, namely: -

“(ba) suspension or cancellation of authorisation for assignment;”.

7. In the principal regulations, in the First Schedule, -

(a) after clause 3, the following clause shall be inserted, namely: -

“3A. An insolvency professional must disclose the details of any conflict of interests to the stakeholders, whenever he comes across such conflict of interest during an assignment.”;

(b) for clause 23, the following clauses shall be substituted, namely: -

“23. An insolvency professional must not engage in any employment when he holds a valid authorisation for assignment or when he is undertaking an assignment.

23A. Where an insolvency professional has conducted a corporate insolvency resolution process, he and his relatives shall not accept any employment, other than an employment secured through open competitive recruitment, with, or render professional services, other than services under the Code, to a creditor having more than ten percent voting power, the successful resolution applicant, the corporate debtor or any of their related parties, until a period of one year has elapsed from the date of his cessation from such process.

23B. An insolvency professional shall not engage or appoint any of his relatives or related parties, for or in connection with any work relating to any of his assignment.

23C. An insolvency professional shall not provide any service for or in connection with the assignment which is being undertaken by any of his relatives or related parties.

**Explanation.-** For the purpose of clauses 23A to 23C, “related party” shall have the same meaning as assigned to it in clause (24A) of section 5, but does not include an insolvency professional entity of which the insolvency professional is a partner or director.”.

Dr. M. S. SAHOO, Chairperson

[ADVT.-III/4/Exty./143/19]

**Note:** The Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 were published *vide* notification No. IBBI/2016-17/GN/REG003 dated 23<sup>rd</sup> November, 2016 in the Gazette of India, Extraordinary, Part III, Section 4, No. 424 on 23<sup>rd</sup> November, 2016 and were subsequently amended by-

(1) The Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2018 published *vide* notification No. IBBI/2017-18/GN/REG027 dated 27<sup>th</sup> March, 2018 in Gazette of India, Extraordinary, Part III, Section 4, No. 125 on 28<sup>th</sup> March, 2018; and

(2) The Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Second Amendment) Regulations, 2018 published *vide* notification No. IBBI/2018-19/GN/REG036 dated 11<sup>th</sup> October, 2018 in Gazette of India, Extraordinary, Part III, Section 4, No. 384 on 11<sup>th</sup> October, 2018.