

2. यह प्राधिकार(तारीख अंतःस्थापित करें) से (तारीख अंतःस्थापित करें) तक विधिमान्य है ।/ इस प्राधिकार का (तारीख अंतःस्थापित करें) को नवीकरण किया जाता है और वह (तारीख अंतःस्थापित करें) तक विधिमान्य है । (जो लागू न हो उसे काट दीजिए)

हस्ता/-

(दिवाला व्यावसायिक एजेंसी का नाम) की ओर से

स्थान:.....

तारीख:.....” ।

डॉ. एम. एस. साहू, अध्यक्ष

[विज्ञापन-III/4/असा./147/19]

टिप्पणः भारतीय दिवाला और शोधन अक्षमता बोर्ड (आदर्श उप-विधियां और दिवाला व्यावसायिक एजेंसियों का शासी बोर्ड) विनियमन, 2016, भारत के राजपत्र, असाधारण, भाग III, खंड 4, सं. 421, तारीख 22 नवम्बर, 2016 में अधिसूचना सं. आई.बी.बी.आई./2016-17/जी.एन./आर.ई.जी.001, तारीख 21 नवम्बर, 2016 द्वारा प्रकाशित किए गए थे और इसके बाद भारत के राजपत्र, असाधारण, भाग III, खंड 4, सं. 383, तारीख 11 अक्टूबर, 2018 में अधिसूचना सं.आई.बी.बी.आई./2018-19/जी.एन./आर.ई.जी.035, द्वारा प्रकाशित भारतीय दिवाला और शोधन अक्षमता बोर्ड (आदर्श उप-विधियां और दिवाला व्यावसायिक एजेंसियों का शासी बोर्ड) (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 (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2019

F. No. IBBI/2019-20/GN/REG043.—In exercise of the powers conferred by sections 196, 203 and 205 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 (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, namely:—

1. (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2019.

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

2. In the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (hereinafter referred to as the principal regulations), in regulation 5, in sub-regulation (8), for the words “seventy years”, the words “seventy-five years” shall be substituted.

3. In the principal regulations, in the Schedule, -

(i) in clause 4, in sub-clause (1), for item (a), the following items 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) “certificate of membership” means the certificate of membership of the Agency granted under bye-law 10;’;

(ii) in clause 12, in sub-clause (1), after item (f), the following item shall be inserted, namely:-

“(fa) date of issue, renewal, suspension, revocation of suspension, cancellation and acceptance of surrender of authorisation for assignment and authorisation number;”;

(iii) after clause 12, the following clauses shall be inserted, namely: -

“12A. Authorisation for Assignment.

(1) The Agency, on an application by its professional member, may issue or renew an authorisation for assignment.

(2) A professional member shall be eligible to obtain an authorisation for assignment, if he-

- (a) is registered with the Board as an insolvency professional;
- (b) is a fit and proper person in terms of the Explanation to clause (g) of regulation 4 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
- (c) is not in employment;
- (d) is not debarred by any direction or order of the Agency or the Board;
- (e) has not attained the age of seventy years;
- (f) has no disciplinary proceeding pending against him before the Agency or the Board;
- (g) complies with requirements, as on the date of application, with respect to-
 - (i) payment of fee to the Agency and the Board;
 - (ii) filings and disclosures to the Agency and the Board;
 - (iii) continuous professional education; and
 - (iv) other requirements, as stipulated under the Code, regulations, circulars, directions or guidelines issued by the Agency and the Board, from time to time.

(3) An application for issue or renewal of an authorisation for assignment, shall be in such form, manner and with such fee, as may be provided by the Agency:

Provided that an application for renewal of an authorisation for assignment shall be made any time before the date of expiry of the authorisation, but not earlier than forty-five days before the date of expiry of the authorisation.

- (4) The Agency shall consider the application in accordance with the bye-laws and either issue or renew, as the case may be, an authorisation for assignment to the professional member in Form B or reject the application with a reasoned order.
- (5) If the authorisation for assignment is not issued, renewed or rejected by the Agency within fifteen days of the date of receipt of application, the authorisation shall be deemed to have been issued or renewed, as the case may be, by the Agency.
- (6) An authorisation for assignment issued or renewed by the Agency shall be valid for a period of one year from the date of its issuance or renewal, as the case may be, or till the date on which the professional member attains the age of seventy years, whichever is earlier.
- (7) An applicant aggrieved of an order of rejection of his application by the Agency may appeal to the Membership Committee within seven days from the date of receipt of the order.
- (8) The Membership Committee shall pass an order disposing of the appeal by a reasoned order, within fifteen days of the date of receipt of the appeal.”;

(iv) after clause 23, the following clause shall be inserted, namely: -

“23A. The authorisation for assignment shall stand suspended upon initiation of disciplinary proceedings by the Agency or by the Board, as the case may be.”;

(v) in clause 24, in sub-clause (2), after item (b), the following item shall be inserted, namely:-

“(ba) cancellation of authorisation for assignment;”;

(vi) for clause 26, the following clause shall be substituted, namely: -

“Surrender of Authorisation for Assignment.”

26. (1) A professional member shall make an application to surrender his authorisation for assignment to the Agency at least thirty days before he-

- (a) becomes a person resident outside India;
- (b) takes up an employment; or
- (c) starts any business, except as specifically permitted under the Code of Conduct, and upon acceptance of such surrender, the same shall be intimated to the Board by the Agency within one working day of acceptance of surrender.

(2) No application for surrender of authorisation for assignments shall be accepted by the Agency, if -

- (a) the authorisation for assignment has been suspended;
- (b) an assignment is continuing; or
- (c) name of the professional member is included in any panel prepared by the Board for undertaking assignment.”;

(vii) in the Annexure, after FORM A, the following Form shall be inserted, namely: -

“FORM B

AUTHORISATION FOR ASSIGNMENT

(Under bye-law 12A of the Agency’s Bye-laws)

No.

Date

.....

This authorisation for assignment is issued to [insert name], who is enrolled as a professional member of the [insert name of insolvency professional agency] with professional membership no. [insert number] and registered with the Insolvency and Bankruptcy Board of India as an insolvency professional with registration no. [insert number] under the Insolvency and Bankruptcy Code, 2016.

2. This authorisation is valid from [insert date] to [insert date]. / This authorisation is renewed on [insert date] and is valid till [insert date]. (Strike off if not applicable).

Sd/-

For and on behalf of [name of insolvency professional agency]

Place:.....

Date:.....”.

Dr. M. S. SAHOO, Chairperson

[ADVT.-III/4/Exty./147/19]

Note : The Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 were published vide notification No. IBBI/2016 -17/GN/REG001 dated 21st November, 2016 in the Gazette of India, Extraordinary, Part III, Section 4, No. 421 on 22nd November, 2016 and were subsequently amended by the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2018 published vide notification No. IBBI/2018-19/GN/REG35 in the Gazette of India, Extraordinary, Part III, Section 4, No. 383 on 11th October, 2018.