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PPIRP

**(Pre-Packed Insolvency
Resolution Process)**

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CHAPTER

7A

**PRE-PACKAGED
INSOLVENCY
RESOLUTION PROCESS
(PPIRP)**

Covering-

- Introduction
- Eligibility for PPIRP
- 1. Pre-initiation phase
- 2. Application for initiation
- 3. Post-initiation phase

**EXPECTED
MARKS COVERAGE
(1 to 5)**

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PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS (PPIRP)

INTRODUCTION

Micro, small, and medium enterprises (MSMEs) are critical for India's economy. They contribute significantly to **gross domestic product** and **provide employment** to a sizeable population. The **COVID-19** pandemic has impacted their business operations and **exposed many of them to financial stress**.

Resolution of their stress requires different treatment, due to the unique nature of their businesses and simpler corporate structures. Therefore, **President promulgated the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021** on 4th April, 2021 to introduce **PPIRP** under the Code for this purpose.

PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS (PPIRP)

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| 1. PPIRP is available for resolution of stress of corporate MSMEs . |
| 2. It is available as an alternate option , should the stakeholders like to use it |
| 3. It is informal up to a point and formal thereafter |
| 4. It entails a limited role of the courts and IPs . |
| 5. Unlike CIRP, it does not yield liquidation if there is no resolution plan. |
| 6. Though PPIRP and CIRP are alternate options , some stakeholders may prefer one over the other in certain circumstances |

LEGAL PROVISIONS GOVERNING PPIRP

The provisions governing PPIRP are available in:

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| 1. Insolvency and Bankruptcy Code, 2016, as amended by the Insolvency and Bankruptcy (Amendment) Ordinance, 2021 (Chapter III-A contains Section 54A to 54 P); |
| 2. Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Rules, 2021 ; and |
| 3. Insolvency and Bankruptcy Board of India (Pre Packaged Insolvency Resolution Process) Regulations, 2021 . |

ELIGIBILITY FOR PPIRP

A Corporate Debtor(CD), which is an MSME under sub-section (1) of the section 7 of the Micro, Small and Medium Enterprises Development Act, 2006, is eligible to apply for initiation of PPIRP, **if it-**

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| (i) has committed a default of at least ₹10 lakh ; |
| (ii) is eligible to submit a resolution plan under section 29A of the Code; |
| (iii) has not undergone a PPIRP during the three years preceding the initiation date; |
| (iv) has not completed a CIRP during the three years preceding the initiation date; |
| (v) is not undergoing a CIRP ; and |
| (vi) is not required to be liquidated by an order under section 33 of the Code. |

To evidence that the CD is an MSME, the application shall attach **either** a copy of the latest and updated Udyam Registration Certificate **or** proof of investment in plant and machinery or equipment and turnover

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1. PRE-INITIATION PHASE

PPIRP envisages a **hybrid process**, where

pre-initiation phase is largely informal and

post initiation stage is formal.

The **informality at pre-initiation stage** offers flexibility for the CD and its creditors to swiftly explore and negotiate the best way to resolve stress in the business,

while the **post-initiation stage** drives value maximisation and bestows the resolution plan with the statutory protection.

The **following activities need to be undertaken in pre-initiation stage:**

A. APPROVAL FOR APPOINTMENT OF IP AS RP

For seeking **approval of creditors** under section 54A(2)(e) and (3), **the applicant** (corporate applicant filing an application for initiation of PPIRP) **shall convene meetings of the Unrelated Financial Creditors (UFCs)**, that is, financial creditors who are not related parties of the CD.

Where the **CD has no financial debt or where all financial creditors are related parties**, the applicant shall convene meetings of **unrelated Operational creditors (UOCs)** and the UOCs shall perform the same duties and functions as the UFCs.

For convening a meeting of UFCs, the applicant shall **serve the notice of the meeting to UFCs at least five days** before the date of the meeting (s) unless a shorter time is agreed to by all of them. The notice of the meeting shall indicate the **date, time, and venue** of the meeting and specific agenda items for discussion

The applicant shall enclose a **list of creditors** and the **amount due to each** of them in **Form P2**, along with the **notice convening the meeting seeking approval for appointment of an IP as RP**

In the meeting of UFCs, **creditors having at least 10% of the value of debt shall propose the name** of an IP eligible under the Regulations, for appointment as RP.

The **UFCs representing not less than 66% in value of debt** due to such creditors **shall approve the appointment as RP** and the terms of appointment **in Form P3**.

The **majority of director/partners of the CD** shall make a **declaration in Form P6 stating:-**

(a) that the **CD shall file an application for initiation** within a definite time **not exceeding 90 days**,

(b) that the PPIRP is **not being initiated to defraud any person**, and

(c) the **name of the IP approved by creditors** to be appointed as the RP.

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B. APPROVAL FOR FILING APPLICATION FOR INITIATING PPIRP

The **members of the CD shall pass a special resolution**, or **at least three-fourth of the total number of partners of the CD** shall pass a resolution, **approving the filing of an application for initiating PPIRP as required in section 54A(2)(g).**

The CD shall prepare a BRP(base resolution plan) in conformity with the requirements under section 54K.

Along with the notice for convening the meeting(s) seeking approval for filing of an application for initiating PPIRP, the applicant shall enclose:-

(a) a list of creditors and the amount due to each of them in **Form P2**

(b) declaration in **Form 6**,

(c) **BRP**(base resolution plan)

In the meeting of UFCs, creditors representing not less than 66% in value of debt due to such creditors shall approve filing of application for initiation of PPIRP of the CD under section 54A(3), in **Form P4**

2. APPLICATION FOR INITIATION

(i) Only a **corporate applicant** can file an application for initiation of PPIRP.

(ii) The applicant shall file the application in **Form 1**, in electronic form, before the **AA (adjudicating authority)** for initiating PPIRP.

(iii) The application shall be accompanied **by the following documents:**

(a) Record of default;

(b) Consent of the IP proposed to be appointed as RP, in Form P1;

(c) Approval of UFCs for initiation, in Form P4;

(d) Consent of the IP proposed to act as AR (authorized representative), if any, in Form P5;

(e) Declaration by Directors/Partners, in Form P6;

(f) Members' resolution or Partners' resolution

(g) Audited financial statements of the last two financial years;

(h) Latest and updated Udyam Registration Certificate, or proof that the CD is an MSME;

(iv) The applicant shall serve a copy of the application (for initiating PPIRP) to the IBBI before filing it with the AA.

(v) Within 14 days of the receipt of the application, the AA shall admit the application, if the application is complete or reject the same, if incomplete

(vi) The PPIRP shall commence on the date of admission of the application

(vii) The AA shall, on the PPIRP commencement date along **with the order of admission**, declare a moratorium,

appoint the IP named in the application as the RP, and

cause a public announcement to be made by the RP

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3. POST-INITIATION PHASE

(i) The process is required to be completed within a time frame of **120 days from the PPIRP commencement date**.

(ii) During the PPIRP, the *management of the affairs* of the CD shall continue to vest in the Board of Directors / the partners of the CD;

(ii) The CD shall, within two days of the PPIRP commencement date, *submit to the RP*, updated as on that date,

(a) a list of claims, along with details of the respective creditors, their security interests and guarantees, in Form P10, and

(b) a preliminary information memorandum (PIM) containing information relevant for formulating a resolution plan.

(iv) The CD shall submit the BRP to the RP within two days of the PPIRP commencement date. It may revise the BRP if permitted by the CoC.

(v) The RP shall make a public announcement, in Form P9, within two days of the commencement of the process

APPROVAL OF RESOLUTION PLAN

(i) If BRP does not impair claims owed to operational creditors (OCs), the CoC may approve it for submission to the AA (adjudicating authority).

(ii) If the CoC does not approve the BRP or the BRP impairs the claims of OCs, the RP shall invite prospective resolution applicants to submit resolution plans to compete with the BRP.

The resolution plans received in response to invitation and complying with the requirements of the Code and the Regulations shall be evaluated on the basis for evaluation. The resolution plan which gets the highest score shall be selected as best alternate plan (BAP) for competition with the BRP.

(v) The CoC may consider BRP for approval if no resolution plan is received.

(vi) The CoC may consider the BAP for approval if it is significantly better than the BRP.

CLOSURE OF PPIRP

The PPIRP closes in the following circumstances:

(i) On approval of either the BRP or the BAP by the AA.

(ii) On expiry of 90 days if no resolution plan is submitted to the AA for approval.

(iii) On rejection of resolution plan by the AA.

(iv) On approval by the AA of application filed by the RP for termination of PPIRP, where the CoC approves termination with 66% of voting share.

(v) On conversion into CIRP based on an application filed by the RP, where the CoC approves so with 66% of voting share, and the CD is eligible for CIRP. The RP of the PPIRP is appointed as the IRP of the CIRP.

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