CIRP - PART - II
[sec. 11A - 20]

Reg / sec.	
11A	Disposal of Application u/s 54C and u/s 7, 9 & 10.
12	Timeline for completion of CIRP.
12A	withdrawal of Application u/s 7, 9 & 10.
13	Declaration of 14, 15 & 16
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15	Public Announcement of CIRP.
16	Appointment and Tenure of IRPro.
17	Management of affairs of CD by IRPro
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19	personnel to extend co-operation to IRPro.
20	Management of affairs of CD as going concern.

PART - II [Sec 11A - 20]

Section - 11A Refer Page No.

Section 12 - Time Limit for completion of CIRP

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CIRP shall be completed within a period of 180 days from the date of admission of app^n

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Beyond 180 days - one time extension - 90 days.

(Resol^n passed at meeting of CoC by a vote of 66.6%

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CIRP mandatorily be completed within a period of 330 days from the insolvency comm. date (incl. any extension)

Section 12A - Withdrawal of Application

Applic^n Filed — App^n Admitted — CoC formed — Invitation or EOI + Reason

Phase - I
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NCLT can permit withdrawal on application by applicant.

Phase - II
↓
NCLT can permit withdrawal on application by applicant.

Phase - III
↓
IRPro / R.pro has obtain approval from CoC.
↓
NCLT can permit approval.

→ Procedure - Phase I & II

Applicant $\xrightarrow{\text{Application for withdrawal}}$ IRPro. $\xrightarrow{\text{within 3 days.}}$ NCLT

+ Bank Guarantee

NCLT
↓
- Actual amt to be deposited in Bank A/c of CD by app within 3 days
  or
- Invoc^n of Bank guarantee
- withdrawal order

Procedure - Phase - III

Applicant $\xrightarrow{\text{Application for withdrawal + Bank gurantee}}$ IRPro $\xrightarrow{\text{within 3 days}}$ NCLT

IRPro ↓ within 7 days ↓ COC 90% approval

NCLT ↓
- Actual amt to be deposited in bank A/c of C.D by app^n (3 days)

  or
- Invoc^n of Bank gurank
- withdrawal order.

* Before the committee of creditors is constituted there is no bar to withdrawal of CIRP by the applicant.

→ Refer case law No -

Section 13 - Declaration of Moratorium And Public Announcement

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After Admitting the app^n u/s 7, or 9 or 10 the NCLT shall by an order.

- Declare a Moratorium for the purp. ref. in sec. 14 — sec - 14
- cause a public Ann. of the init. of CIRP & call for the submi^n of claim. u/s 15 — sec - 15
- Appoint an IRPro. — sec - 16

→ The Public Announcement shall me made immediately after the appointment of the IRPro - immediately means 3 days from the date of his appointment in Form A

→ It shall be published in one English and one Regional Language Newspaper with wide circulation at the location.

- where Registered office and principal office of CD is situated.
- Any other location where in the opinion of the IRPro, the CD conducts material business operation.

Section 14 - Moratorium.

1. on the insolvency comm. date the AA shall by order declare moratorium for providing prohibiting all of the following namely -

→ a) The institution of suit or continuation of pending suits or proceeding against the CD including execution of any Judgement, decree or order in any Law / tribunal / arbn pannel.

→ b) Transferring, encumbering, alienating or disposing of by the CD any of its assets or any legal right or beneficial int. therein.

→ c) Any Action to foreclose, recover or enforce any sec. int created by the C.D in respect of property incl. any action under Securitizn and Reconstn of Fin. asset and enforcement of sec. int Act, 2002.

→ d) The Recovery of any property by an owner or lessor where such property is occupied by or in the possession of C.D. (Refer Danger Point No - 2)

Expln - A Licence, permit, Registn, allota, concessn clearance or a similar grant or right given by CG / SG / LA
↓
shall not be suspended / terminated on the ground of insolvency sub. to condn that
↓
There is no default in payment of current dues arising for the use or continuation of the Licence

2. The supply of essential goods or services to the CD as may be specified shall not be terminated or suspended or interrupted during moratorium period.
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Except where such C.D. has not paid dues arising from such supply during morotorium period. [sec. 2A] - Refer case Law No - 8 10

3. The provision of sub sec. (1) shall not apply to
→ such transactions, agreement or other arrangement as may be notified by CG in consultation with any Fin. Regulator
→ surety in a contract of guarantee to a corporate debtor.

4. The order of moratorium shall have effect from the date of such order till the completion of CIRP.

Refer case Law No 7 - 19.

case law sheet Set - 2 P.g. No 2 ← [Moratorium related case Laws]

Decl of Moratorium serves the following purpose -

- Ensures that multiple proceedings are not taking place simultaneous and thus avoid possibilities of potentially conflicting outcomes of related proceedings.
- Keep the CD's assets together during the CIRP & facilitates orderly completion of process.
- Ensure that the co. may continue as a going concern while the crs. assess the options for Resoln of default.
- Prohibition on CD's asset ensure ensure that the CD / mgt. does transfer its assets

Punishment for Contravention of Moratorium

Sec. 74(1) - CD / any of its officer
↓
knowingly or willfully committed contravn
↓
Imp - 3-5 yrs
Fine - Min - 1L
Max - 3L
or Both

Sec. 74(2) - Any creditor
↓
any person who knowingly & willfully authorised / permited such contravention by creditor.
↓
Imp - 1-5 yrs
Fine - Min - 1L
max - 1 cr
or Both.

Section 15 - Public Ann. of CIRP

→ Public Announcement of CIRP shall contain the following info.

a) → Name and address of CD under CIRP.
b) → Name of the authority with which CD is inco. or registered.
c) → Last Date for submission of claims.
d) → Details of the IRPro who shall be vested with the mgt. of the CD and responsible for receiving claims.
e) → Penalties for false or misleading claims.
f) → Date on which CIRP shall close → 180 days from sub. appn u/s 7, 9, 10

Section 16 - Appointment and Tenure of IRPro

Case - 1
Applicant FC / OC / CD —Name of R. Pro→ **NCLT** →
- If No D.P pending → appoint u/s 16
- If D.P is pending → Reject

Case - 2
Applicant OC —Name of R. Pro ⓧ→ **NCLT** → Appoint IR Pro u/s 16.

NCLT —Ref.→ IBBI
IBBI —IR Pro Name (W - 10D)→ NCLT

Section 17 - Management of Affairs of CD by IRPro

(1) From the date of Appointment of I RPro. :

a) The management of the affairs of CD shall vest in the I RPro.

b) The powers of the BOD / Partners of CD shall be suspended and be exercised by IRPro. - [Refer case Law No - 12]

c) officers / managers of CD shall report to the IRPro and Provide access of such docs and records of CD as may be required.

d) Fin. institutions maintaining accounts of CD shall act on the instruction of I.RPro and provide all info. relating to the CD available with them.

(2) IRPro vested with management of CD shall :

a) Act and execute in the name and on behalf of CD
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all deeds / receipts / other doc.

b) Take such actions in the manner and subject to such restrictions as may be specified by board.

c) Have the authority to access electronic records of CD from info. Utility.

d) Have the authority to access books of accounts / records and other doc. of CD with Govt. auth. St. auditor & such other person as may be specified.

e) Be responsible for complying with the requirement under any Law on behalf of CD.

Section - 18 Duties of I. RPro.

→ a) To collect all info. relating to assets, finances and op^n of CD for determining Fin. position of CD incl. info. related to.
- → Business operations for the pre. 2 yrs.
- → Financial and operational payments for the p. 2 yrs
- → List of assets and Liabilities as on the initiation date.
- → such other matters as may be specified.

→ b) Receive and collect all the claims submitted by crs.

→ c) Constitute a committee of creditors.

→ d) Monitor the assets of CD and manage its operation until the R. Pro is appointed by COC.

→ e) File the info. collected with the info. Utility

→ F) Take control and custody of any assets over which CD has ownership right as recorded in b/s of CD or with info. Utility or the depository of sec. or any other Registery that records ownership of assets incl.
- → Assets over which CD has ownership right Located in foreign
- → Assets that may or may not be in Possession of CD
- → Tangible assets whether movable or immovable
- → Intangible assets incl. intellectual property.
- → sec. incl. shares held in any subsid. of CD. Fin instru, insu, Policy
- → Asset sub. to determination of ownership by a court / autho.

→ section 18 provides that for the purpose of this sec. 'assets' shall not incl.

- Assets owned by a third person in possession of the CD held under trust or under contractual arrangement incl. bailment.
- Assets of any Indian or foreign subsidiary of the corpo. debtor.
- Such other assets as may be notified by CG in consultn with any financial sector regulation.

Section 19 - Personnel to Extend co-opn to IRPro.

→ This sec. imposes an obligation on the personnel, promoters and any other person associate with the management of the CD to extend all assistance and co-opn required by I.RPro in the mgt of the affairs of the C.D.

→ Personnel includes the Directors, managers, kmp, designated partners and employees if any of the C.D.

→ If personnel of CD promoter or any other person $\xrightarrow[\text{corporate}]{\otimes}$, IRPro $\xrightarrow{\text{Appn}}$ AA

↓

on Receiving Appn

↓

Direct to comply with such instruction of R.Pro and to co-operate with him.

Section 20 - Mgt. of operations of CD as Going concern

- The IRPro shall make every endevour to protect and preserve the value of the property. of the C.D and manage the opn of of CD as a Going concern.
- IRPro k shall have authority -

a) → To appoint Accountants, legal or other professionals as may necessary

b) → To enter into contract on behalf of CD or to amend or modify the contracts or transactions which were entered into before CIRP.

c) → To Raise interim finance provided that no sec. int shall be created over any encumbered property
* D.P
Provided that no prior consent of the creditor shall be required where the value of such property is not less than the amount equivalent to the twice the amount of debt.

d) → To issue instruction to personnel of the CD as may be necessary for keeping the CD as going concern.

e) → To take all such actions as are necessary to keep the CD as a going concern