

Comparative study of Companies Act, 2013 with Insolvency and Bankruptcy Code,2016



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**COMPARATIVE STUDY OF COMPANIES ACT, 2013 WITH INSOLVENCY AND
BANKRUPTCY CODE, 2016**

➤ **AMENDMENTS IN COMPANIES ACT, 2013 DUE TO INSOLVENCY AND
BANKRUPTCY CODE, 2016**

On November 15, 2016, certain section of Insolvency and Bankruptcy Code, 2016 (“the Code”) were notified by the Ministry of Corporate affairs. Amongst other section 255 of the Code was also notified.

On enforcement of section 255 of the Code the Companies Act, 2013 stands amended in accordance with schedule XI. Below is the comparative study of Companies act, 2013 with the code.

Sr No	Section as per Companies Act, 2013	Existing Provisions of the Companies Act, 2013	Amendment in provisions of Companies Act, 2013 after enforcement of Insolvency And Bankruptcy Code w.e.f November 15, 2016
1	Section 2 (23)	Company Liquidator in relation to winding up of a Company, means a person appointed by- a) <u>The Tribunal in case of winding up by Tribunal;</u> <u>or</u> b) <u>The Company or creditors in case of voluntary winding up,</u> as a Company Liquidator from a panel of professionals maintained by the Central Government.	Company Liquidator means a person <u>appointed by the Tribunal as the Company Liquidator</u> in accordance of with the provision of Section 275 for winding up of a Company under this Act.
2	Section 2 (94A)	Not defined	Winding Up means winding up under Section 271 or liquidation under the Insolvency and Bankruptcy Code, 2016 as applicable.
3	Section 8 (9)	If on the winding up or dissolution of a Company registered under this section, there remains, after the satisfaction of its debts and liabilities, any asset, they may be transferred to another Company registered under this section and having similar objects, subject to such conditions as the Tribunal may impose, or may be sold and	If on the winding up or dissolution of a Company registered under this section, there remains, after the satisfaction of its debts and liabilities, any asset, they may be transferred to another Company registered under this section and having similar objects, subject to such conditions as the Tribunal

		proceeds thereof credited <u>to the Rehabilitation and Insolvency Fund formed under section 269.</u>	may impose, or may be sold and proceeds thereof credited to <u>Insolvency and Bankruptcy Fund formed under Section 224 of the Insolvency and Bankruptcy Code, 2016.</u>
4	Section 66 (8)	Where the name of any creditor entitled to object to the reduction of share capital under this section is, by reason of his ignorance of the proceedings for reduction or of their nature and effect with respect to his debt or claim, not entered on the list of creditors, and after such reduction, <u>the Company is unable, within the meaning of sub-section (2) of section 271, to pay the amount of his debt or claim</u>	Where the name of any creditor entitled to object to the reduction of share capital under this section is, by reason of his ignorance of the proceedings for reduction or of their nature and effect with respect to his debt or claim, not entered on the list of creditors, and after such reduction, <u>the Company commits a default, within the meaning of Section 6 of the Insolvency and Bankruptcy Code, 2016, in respect of the amount of his debt or claim.</u>
5	Section 77 (3)	Notwithstanding anything contained in any other law for the time being in force, no charge created by a Company shall be taken into account by the <u>liquidator or any other Creditor.</u>	Notwithstanding anything contained in any other law for the time being in force, no charge created by a Company shall be taken into account by the <u>liquidator appointed under this Act or the Insolvency and Bankruptcy Code, 2016 or any other.</u>
6	Section 117 (3)(f)	The provisions of this section shall apply to the resolutions requiring a Company to be wound up voluntarily passed in pursuance of <u>section 304 (circumstances in which Company may be wound up voluntarily).</u>	The provisions of this section shall apply to resolutions requiring a Company to be wound up voluntarily passed in pursuance of <u>section 59 of the Insolvency and Bankruptcy Code, 2016 (Voluntary Liquidation Of Corporate Persons)</u>
7	Section 224 (2)	If any Company or other body corporate is liable to be wound up <u>under this Act</u> and it appears to the Central Government from any such report made under section 223 that it is expedient so to do by reason of any such circumstances as are referred to in section 213,	If any Company or other body corporate is liable to be wound up <u>up under this Act or under the Insolvency and Bankruptcy Code, 2016</u> and it appears to the Central Government from any such report made under section 223 that it is expedient so to do

		<p>the Central Government may, unless the Company or body corporate is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf—</p> <p>(a) a petition for the winding up of the Company or body corporate on the ground that it is just and equitable that it should be wound up;</p> <p>(b) an application under section 241; or</p> <p>(c) both</p>	<p>by reason of any such circumstances as are referred to in section 213, the Central Government may, unless the Company or body corporate is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf—</p> <p>(a) a petition for the winding up of the Company or body corporate on the ground that it is just and equitable that it should be wound up;</p> <p>(b) an application under section 241; or</p> <p>(c) both</p>
8	Section 230 (1) a	The Tribunal may, on the application of the Company or of any creditor or member of the Company, or in the case of a Company which is being wound up, <u>of the liquidator.</u>	The Tribunal may, on the application of the Company or of any creditor or member of the Company, or in the case of a Company which is being wound up, <u>of the liquidator appointed under this Act or under the Insolvency and Bankruptcy Code, 2016.</u>
9	Section 230 (6)	Where, at a meeting held in pursuance of sub-section (1), majority of persons Representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement issanctioned by the Tribunal by an order, the same shall be binding on the Company, all thecreditors, or class of creditors or members or class of members, as the case may be, or, in case of a Company being wound up, <u>on the liquidator and</u>	Where, at a meeting held in pursuance of sub-section (1), majority of persons Representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement issanctioned by the Tribunal by an order, the same shall be binding on the Company, all thecreditors, or class of creditors or members or class of members, as the case may be, or, in case of a Company being wound up, on

		<u>the contributories of the Company.</u>	the <u>liquidator appointed under this Act or under the Insolvency and Bankruptcy Code, 2016, as the case may be and the contributories of the Company.</u>
10	Section 249 (1) (e)	An application under sub-section (2) of section 248 on behalf of a Company shall not be made if, at any time in the previous three months, the Company is being <u>wound up under Chapter XX, whether voluntarily or by the Tribunal.</u>	An application under sub-section (2) of section 248 on behalf of a Company shall not be made if, at any time in the previous three months, the Company is being <u>wound up under Chapter XX, or under the Insolvency and Bankruptcy Code, 2016.’</u>
11	Section 253 - 269	Revival and Rehabilitation of Sick Companies	<u>Omitted</u> by the Insolvency and Bankruptcy Code, 2016.
12	Section 270	(1) The winding up of a Company may be either: (a) <u>by the Tribunal; or</u> (b) <u>Voluntary</u>	The provisions of Part I shall apply to the winding up of a Company <u>by the Tribunal</u> under this Act.
13	Section 271	A Company may, on a petition under section 272, be wound up by the Tribunal- (a) <u>if the Company is unable to pay its debts;</u> (b) if the Company has, by special resolution, resolved that the Company be wound up by the Tribunal; (c) if the Company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality; (d) <u>if the Tribunal has ordered the winding up of the Company under Chapter XIX;</u>	Circumstances in which Company may be wound up by Tribunal- (a) Company to be wound up by special resolution; (b) Company has acted against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality; (c) On an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the Company have been conducted in a fraudulent

		<p>(e) if on an application made by the Registrar or any other person authorised by the Central Government by notification under this Act, the Tribunal is of the opinion that the affairs of the Company have been conducted in a fraudulent manner or the Company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the Company be wound up;</p> <p>(f) if the Company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or</p> <p>(g) if the Tribunal is of the opinion that it is just and equitable that the Company should be wound up.</p>	<p>manner or the Company was formed for fraudulent and unlawful purpose or the persons concerned in the formation or management of its affairs have been guilty of fraud, misfeasance or misconduct in connection therewith and that it is proper that the Company be wound up;</p> <p>(d) if the Company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years; or</p> <p>(e) if the Tribunal is of the opinion that it is just and equitable that the Company should be wound up.</p>
14	Section 272 (1)	<p>The petition for winding up shall be presented by :</p> <p>(a) the Company;</p> <p><u>(b) any creditor or creditors, including any contingent or prospective creditor or creditors;</u></p> <p>(c) any contributory or contributories;</p> <p>(d) all or any of the persons specified in clauses (a), (b) and (c) together;</p> <p>(e) the Registrar;</p> <p>(f) any person authorised by the Central Government in that behalf; or</p> <p>(g) in a case falling under clause</p>	<p>The petition for winding up shall be presented by :</p> <p>(a) the Company;</p> <p>(b) any contributory or contributories;</p> <p>(c) all or any of the persons specified in clauses (a) and (b);</p> <p>(d) the Registrar;</p> <p>(e) any person authorised by the Central Government in that behalf; or</p> <p>(f) in a case falling under clause (b) of section 271, by the Central Government or a State Government.</p>

		(c) of sub-section (1) of section 271, by the Central Government or a State Government.	
15	Section 272 (2)	A secured creditor, the holder of any debentures, whether or not any trustee or trustees have been appointed in respect of such and other like debentures, and the trustee for the holders of debentures shall be deemed to be creditors within the meaning of clause (b) of sub-section (1).	Omitted by the Insolvency Bankruptcy Code, 2016.
16	Section 275 (2)	The provisional liquidator or the Company Liquidator, as the case may be, shall be appointed from a panel maintained by the Central Government consisting of the names of chartered accountants, advocates, Company secretaries, cost accountants or firms or bodies corporate having such chartered accountants, advocates, Company secretaries, cost accountants and such other professionals as may be notified by the Central Government or from a firm or a body corporate of persons having a combination of such professionals as may be prescribed and having at least ten years' experience in Company matters.	The provisional liquidator or the Company Liquidator, as the case may, shall be appointed by the Tribunal from amongst the insolvency professionals registered under the Insolvency and Bankruptcy Code, 2016.
17	Section 275 (4)	The Central Government may remove the name of any person or firm or body corporate from the panel maintained under sub-section (2) on the grounds of misconduct, fraud, misfeasance, breach of duties or professional incompetence	Omitted by the Insolvency Bankruptcy Code, 2016.
18	Section 280	The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of : (a) any suit or proceeding by or	The Tribunal shall, notwithstanding anything contained in any other law for the time being in force, have jurisdiction to entertain, or dispose of : (a) any suit or proceeding by or

		<p>against the Company;</p> <p>(b) any claim made by or against the Company, including claims by or against any of its branches in India;</p> <p>(c) any application made under section 233;</p> <p>(d) any scheme submitted under section 262;</p> <p>(e) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the Company,</p> <p>whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for the winding up of the Company is made.</p>	<p>against the Company;</p> <p>(b) any claim made by or against the Company, including claims by or against any of its branches in India;</p> <p>(c) any application made under section 233;</p> <p>(d) any question of priorities or any other question whatsoever, whether of law or facts, including those relating to assets, business, actions, rights, entitlements, privileges, benefits, duties, responsibilities, obligations or in any matter arising out of, or in relation to winding up of the Company,</p> <p>whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises or such application has been made or is made or such scheme has been submitted, or is submitted, before or after the order for winding up of the Company is made.</p>
19	Section 289	Power of Tribunal on application stay on winding up	Omitted by the Insolvency Bankruptcy Code, 2016.
20	Section 304 - 323	Voluntary winding up	Omitted by the Insolvency Bankruptcy Code, 2016.
21	Section 325	Application of insolvency rules in winding up of insolvent Companies.	Omitted by the Insolvency Bankruptcy Code, 2016.
22	Section 326 (1)	<p>Notwithstanding anything contained in this Act or any other law for the time being in force, in the winding up of a Company:</p> <p>(a) workmen's dues; and</p> <p>(b) debts due to secured</p>	<p>In the winding up of a Company under this Act, the following debts shall be paid in priority to all other debts:</p> <p>(a) workmen's dues; and</p> <p>(b) where a secured creditor</p>

		<p><u>creditors to the extent such debts rank under clause (iii) of the proviso to sub-section (1) of section 325 pari passu with such dues,</u></p> <p>shall be paid in priority to all other debts.</p>	<p><u>has realised a secured asset, so much of the debts due to such secured creditor as could not be realised by him or the amount of the workmen's portion in his security (if payable under the law), whichever is less, pari passu with the workmen's dues.</u></p>
23	Section 327 (7)	No provisions as such	Sections 326 and 327 shall not be applicable in the event of liquidation under the Insolvency and Bankruptcy Code, 2016.
24	Section 329	Any transfer of property, movable or immovable, or any delivery of goods, made by a Company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrance in good faith and for valuable consideration, if made within a period of one year before the presentation of a petition for winding up by the Tribunal <u>or the passing of a resolution for voluntary winding up of the Company,</u> shall be void against the Company Liquidator.	Any transfer of property, movable or immovable, or any delivery of goods, made by a Company, not being a transfer or delivery made in the ordinary course of its business or in favour of a purchaser or encumbrance in good faith and for valuable consideration, if made within a period of one year before the presentation of a <u>petition for winding up by the Tribunal under this Act</u> shall be void against the Company Liquidator.
25	Section 334	<p><u>(1) In the case of a voluntary winding up, any transfer of shares in the Company, not being a transfer made to or with the sanction of the Company Liquidator, and any alteration in the status of the members of the Company, made after the commencement of the winding up, shall be void.</u></p> <p>(2) In the case of a winding up by the Tribunal, any disposition of the property, including actionable claims, of the Company, and any transfer of shares in the Company or alteration in the status of its members, made after the commencement of the winding up, shall, unless the Tribunal</p>	In the case of a winding up by the Tribunal, any disposition of the property including actionable claims, of the Company and any transfer of shares in the Company or alteration in the status of its members, made after the commencement of the winding up shall, unless the Tribunal otherwise orders, be void.

		otherwise orders, be void	
26	Section 336	If any person, who is or has been an officer of a Company which, at the time of the commission of the alleged offence, is being wound up, <u>whether by the Tribunal or voluntarily, or which is subsequently ordered to be wound up by the Tribunal or which subsequently passes a resolution for voluntary winding up</u>	f any person, who is or has been an officer of a Company which, at the time of the commission of the alleged offence, is being wound up, <u>by the Tribunal under this Act or which is subsequently ordered to be wound up by the Tribunal under this Act</u>
27	Section 337	If any person, being at the time of the commission of the alleged offence an officer of a Company which is subsequently ordered to be wound up by the <u>Tribunal or which subsequently passes a resolution for voluntary winding up</u>	If any person, being at the time of the commission of the alleged offence an officer of a Company which is subsequently ordered to be <u>wound up by the Tribunal under this Act.</u>
28	Section 342 (2)	If it appears to the Company Liquidator in the course of a voluntary winding up that any person, who is or has been an officer, or any member, of the Company has been guilty of any offence in relation to the Company under this Act, he shall forthwith report the matter to the Registrar and shall furnish to him such information and give to him such access to and facilities for inspecting and taking copies of any books and papers, being information or books and papers in the possession or under the control of the Company Liquidator and relating to the matter in question, as the Registrar may require.	<u>Omitted</u> by the Insolvency Bankruptcy Code, 2016.
29	Section 342 (3)	Where any report is made under sub-section (2) to the Registrar: (a) if he thinks fit, he may apply to the Central Government for an order to make further inquiry into the affairs of the Company by any	<u>Omitted</u> by the Insolvency Bankruptcy Code, 2016.

		<p>person designated by him and for conferring on such person all the powers of investigation as are provided under this Act;</p> <p>(b) if he considers that the case is one in which a prosecution ought to be instituted, he shall report the matter to the Central Government, and that Government may, after taking such legal advice as it thinks fit, direct the Registrar to institute prosecution.</p>	
30	Section 342 (4)	<p>If it appears to the Tribunal in the course of a voluntary winding up that any person, who is or has been an officer, or any member, of the Company has been guilty as aforesaid, and that no report with respect to the matter has been made by the Company Liquidator to the Registrar under sub-section (2), the Tribunal may, on the application of any person interested in the winding up or <i>suomotu</i>, direct the Company Liquidator to make such a report, and on a report being made, the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of sub-section (2).</p>	Omitted by the Insolvency Bankruptcy Code, 2016.
31	Section 343 (1)	<p>The Company Liquidator may:</p> <p><u>(a) with the sanction of the Tribunal, when the Company is being wound up by the Tribunal; and</u></p> <p><u>(b) with the sanction of a special resolution of the Company and prior approval of the Tribunal, in the case of a voluntary winding up,-</u></p> <p>(i) pay any class of creditors in full;</p> <p>(ii) make any compromise or</p>	<p>The Company Liquidator may, with the sanction of the Tribunal, when the Company is <u>being wound up by the Tribunal; and</u></p> <p>(i) pay any class of creditors in full;</p> <p>(ii) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the Company, or whereby the Company may be rendered liable; or</p>

		<p>arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, against the Company, or whereby the Company may be rendered liable; or</p> <p>(iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the Company and a contributory or alleged contributory or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the Company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.</p>	<p>(iii) compromise any call or liability to call, debt, and liability capable of resulting in a debt, and any claim, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or alleged to subsist between the Company and a contributory or alleged contributory or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets or liabilities or the winding up of the Company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.</p>
32	Section 347 (1)	<p>When the affairs of a Company have been completely wound up and it is about to be dissolved, its books and papers and those of the Company Liquidator may be disposed of as follows:—</p> <p><u>(a) in the case of winding up by the Tribunal, in such manner as the Tribunal directs; and</u></p> <p><u>(b) in the case of voluntary winding up, in such manner as the Company by special resolution with the prior approval of the creditors direct.</u></p>	<p>When the affairs of a Company have been completely wound up and it is about to be dissolved, the books and papers of such Company and those of the Company Liquidator may be disposed of <u>in such manner as the Tribunal directs.</u></p>
33	Section 348 (1)	If the winding up of a Company is	If the winding up of a Company

		<p>not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, <u>duly audited, by a person qualified to act as auditor of the Company, with respect to the proceedings in, and position of, the liquidation,</u></p> <p>(a) in the case of a winding up by the Tribunal, with the Tribunal; and</p> <p>(b) in the case of a voluntary winding up, with the Registrar:</p> <p>Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply.</p>	<p>is not concluded within one year after its commencement, the Company Liquidator shall, unless he is exempted from so doing, either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in such form containing such particulars as may be prescribed, <u>duly audited, by a person qualified to act as auditor of the Company, with respect to the proceedings in, and position of, the liquidation, with the Tribunal:</u></p> <p>Provided that no such audit as is referred to in this sub-section shall be necessary where the provisions of section 294 apply.</p>
34	Section 357	<p>(1) Where, before the presentation of a petition for the winding up of a Company by the Tribunal, a resolution has been passed by the Company for voluntary winding up, the winding up of the Company shall be <u>deemed to have commenced at the time of the passing of the resolution,</u> and unless the Tribunal, on proof of fraud or mistake, thinks fit to direct otherwise, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.</p> <p>(2) In any other case, the winding up of a Company by the Tribunal shall be <u>deemed to commence at</u></p>	<p>The winding up of a Company by the Tribunal under this Act shall be <u>deemed to commence at the time of the presentation of the petition for the winding up.</u></p>

		<u>the time of the presentation of the petition for the winding up.</u>	
35	Section 370	<p>All suits and other legal proceedings taken by or against the Company, or any public officer or member thereof, which are pending at the time of the registration of a Company in pursuance of this Part, may be continued in the same manner as if the registration had not taken place:</p> <p>Provided that execution shall not issue against the property or persons of any individual member of the Company on any decree or order obtained in any such suit or proceeding; but, in the event of the property of the Company being insufficient to satisfy the decree or order, <u>an order may be obtained for winding up the Company.</u></p>	<p>All suits and other legal proceedings taken by or against the Company, or any public officer or member thereof, which are pending at the time of the registration of a Company in pursuance of this Part, may be continued in the same manner as if the registration had not taken place:</p> <p>Provided that execution shall not issue against the property or persons of any individual member of the Company on any decree or order obtained in any such suit or proceeding; but, in the event of the property of the Company being insufficient to satisfy the decree or order, <u>an order may be obtained for winding up the Company in accordance with the provisions of this Act or of the Insolvency and Bankruptcy Code, 2016 shall be inserted</u></p>
36	Section 372	<p><u>The provisions of this Act</u> with respect to staying and restraining suits and other legal proceedings against a Company at any time after the presentation of a petition for winding up and before the making of a winding up order, shall, in the case of a Company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and other legal proceedings against any contributory of the Company.</p>	<p><u>The provisions of this Act or of the Insolvency and Bankruptcy Code, 2016 as the case may be,</u> with respect to staying and restraining suits and other legal proceedings against a Company at any time after the presentation of a petition for winding up and before the making of a winding up order, shall, in the case of a Company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to suits and other legal proceedings against any contributory of the Company.</p>
37	Section 419 (4)	<u>The President shall, for the disposal of any case relating to</u>	<u>The Central Government shall, by notification, establish such</u>

		<u>rehabilitation, restructuring, reviving, of Companies, constitute one or more Special Benches consisting of three or more members, majority necessarily being of Judicial Members.</u>	<u>number of benches of the Tribunal, as it may consider necessary,</u> to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under Part II of the Insolvency and Bankruptcy Code, 2016.
38	Section 424 (1)	The Tribunal and the Appellate Tribunal shall not, while disposing of any proceeding before it or, as the case may be, an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice, and, <u>subject to the other provisions of this Act</u> and of any rules made thereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure.	The Tribunal and the Appellate Tribunal shall not, while disposing of any proceeding before it or, as the case may be, an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice, and, <u>subject to the other provisions of this Act or of the Insolvency and Bankruptcy Code, 2016</u> and of any rules made thereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure.
39	Section 424 (2)	The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions <u>under this Act</u> , the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely: (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or	The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions <u>under this Act or under the Insolvency and Bankruptcy Code, 2016</u> the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely: (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) subject to the provisions of

		<p>document or a copy of such record or document from any office;</p> <p>(e) issuing commissions for the examination of witnesses or documents;</p> <p>(f) dismissing a representation for default or deciding it ex parte;</p> <p>(g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and</p> <p>(h) any other matter which may be prescribed.</p>	<p>sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or a copy of such record or document from any office;</p> <p>(e) issuing commissions for the examination of witnesses or documents;</p> <p>(f) dismissing a representation for default or deciding it ex parte;</p> <p>(g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and</p> <p>(h) any other matter which may be prescribed.</p>
40	Section 429 (1)	<p><u>The Tribunal may, in any proceeding relating to a sick Company or winding up of any other Company,</u> in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such sick or other Company, are situate or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him:</p> <p>(a) take possession of such property, books of account or other documents; and</p> <p>(b) cause the same to be entrusted to the Tribunal or other person</p>	<p><u>The Tribunal may, in any proceedings for winding up of a Company under this Act or in any proceedings under the Insolvency and Bankruptcy Code, 2016,</u> in order to take into custody or under its control all property, books of account or other documents, request, in writing, the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector within whose jurisdiction any such property, books of account or other documents of such Company under this Act or of corporate persons under the said Code, are situated or found, to take possession thereof, and the Chief Metropolitan Magistrate, Chief Judicial Magistrate or the District Collector, as the case may be, shall, on such request being made to him,—</p> <p>(a) take possession of such property, books of account or</p>

		authorised by it.	other documents; and (b) cause the same to be entrusted to the Tribunal or other persons authorized by it.”
41	Section 434 (1)	<p>On such date as may be notified by the Central Government in this behalf,—</p> <p>(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956 (1 of 1956), immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;</p> <p>(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:</p> <p>Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and</p> <p>(c) all proceedings under the Companies Act, 1956 (1 of 1956), including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or</p>	<p>On such date as may be notified by the Central Government in this behalf,—</p> <p>(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956 (1 of 1956), immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;</p> <p>(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:</p> <p>Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and</p> <p>(c) all proceedings under the Companies Act, 1956 (1 of 1956), including proceedings relating to arbitration, compromise, arrangements and</p>

		<p>High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer;</p> <p><u>(d)any appeal preferred to the Appellate Authority for Industrial and Financial Reconstruction or any reference made or inquiry pending to or before the Board of Industrial and Financial Reconstruction or any proceeding of whatever nature pending before the Appellate Authority for Industrial and Financial Reconstruction or the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 immediately before the commencement of this Act shall stand abated:</u></p> <p><u>Provided that a Company in respect of which such appeal or reference or inquiry stands abated under this clause may make a reference to the Tribunal under this Act within one hundred and eighty days from the commencement of this Act in accordance with the provisions of this Act:</u></p> <p><u>Provided further that no fees shall be payable for making such reference under this Act by a Company whose appeal or reference or inquiry stands abated under this clause.</u></p>	<p>reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer:</p> <p><u>Provided that only such proceedings relating to the winding up of Companies shall be transferred to the Tribunal that are at a stage as may be prescribed by the Central Government.</u></p> <p><u>Provided further that only such proceedings relating to cases other than winding up , for which orders for allowing or otherwise of the proceedings are not reserved by High Courts shall be transferred to the Tribunal.</u></p> <p><u>Provided further that-</u></p> <p>(i) <u>all proceedings under the Companies Act, 1956 other than cases relating to winding up of Companies that are reserved for order for allowing or otherwise such proceedings; or</u></p> <p>(ii) <u>the proceedings relating to winding up of Companies which have not been transferred from High Court;</u></p> <p><u>shall be dealt with in accordance with the provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959.</u></p>
42	Section 468 (2)	In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters,	In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the

		<p>namely:—</p> <p>(i) as to the mode of proceedings to be held for winding up of a Company by the Tribunal;</p> <p><u>(ii) for the voluntary winding up of companies, whether by members or by creditors;</u></p> <p>(iii) for the holding of meetings of creditors and members in connection with proceedings under section 230;</p> <p>(iv) for giving effect to the provisions of this Act as to the reduction of the capital;</p> <p>(v) generally for all applications to be made to the Tribunal under the provisions of this Act;</p> <p>(vi) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;</p> <p>(vii) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;</p> <p>(viii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;</p> <p>(ix) the making of calls; and</p> <p>(x) the fixing of a time within which debts and claims shall be proved.</p>	<p>following matters, namely:—</p> <p>(i) as to the mode of proceedings to be held for winding up of a Company by the Tribunal under this Act;</p> <p>(ii) for the holding of meetings of creditors and members in connection with proceedings under section 230;</p> <p>(iii) for giving effect to the provisions of this Act as to the reduction of the capital;</p> <p>(iv) generally for all applications to be made to the Tribunal under the provisions of this Act;</p> <p>(v) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;</p> <p>(vi) the settling of lists of contributories and the rectifying of the register of members where required, and collecting and applying the assets;</p> <p>(vii) the payment, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;</p> <p>(viii) the making of calls; and</p> <p>(ix) the fixing of a time within which debts and claims shall be proved</p>
43	Schedule V, in Part II, in section III, for clause (b)	<p>where the Company—</p> <p>(i) is a newly incorporated Company, for a period of seven years from the date of its incorporation, or</p> <p>(ii) is a sick Company, for whom a</p>	<p>where the Company—</p> <p>(i) is a newly incorporated Company, for a period of seven years from the date of its incorporation, or</p> <p>(ii) is a sick Company, for whom</p>

		<p>scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction or National Company Law Tribunal, for a period of five years from the date of sanction of scheme of revival,</p> <p>it may pay remuneration up to two times the amount permissible under Section II.</p>	<p>a scheme of revival or rehabilitation has been ordered by the Board for Industrial and Financial Reconstruction for a period of five years from the date of sanction of scheme of revival, or</p> <p><u>(iii) is a Company in relation to which a resolution plan has been approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 for a period of five years from the date of such approval.</u></p> <p>it may pay remuneration up to two times the amount permissible under Section II.</p>
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Disclaimer

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