

**BYE-LAWS OF  
INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI**

**I. GENERAL**

1. These Bye laws are applicable to "Indian Institute of Insolvency Professionals of ICAI as Insolvency Professional Agency (hereinafter referred to as Agency)
2. The Agency is registered as a company under section 8 of the Companies Act, 2013 with its registered office situated at ICAI Bhawan, Indraprastha Marg New Delhi- 110002.
3. These bye-laws shall not be amended, except in accordance with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

**I. DEFINITIONS**

4. (1) In these bye-laws, unless the context otherwise requires -
  - (a) "certificate of membership" means the certificate of membership of the Agency granted under bye-law10;
  - (b) "Code" means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
  - (c) "Governing Board" means the Board of Directors of the Agency as defined under section 2(10) of Companies Act, 2013 (18 of 2013);
  - (d) "professional member" means an insolvency professional who has been enrolled as such, in accordance with Part VI of these bye-laws;
  - (e) "relative" shall have the same meaning as assigned to it in section 2(77) of the Companies Act, 2013.

(2) Unless the context otherwise requires, words and expressions used and not defined in the bye-laws of IIIPI shall have the meanings assigned to them in the Insolvency and Bankruptcy Code, 2016 and Regulations thereunder.

**II. OBJECTIVES**

5. (1) IIIPI shall carry on the functions of the insolvency professional agency under the Insolvency and Bankruptcy Code, 2016, and functions incidental thereto.

(2) IIIPI shall not carry on any function other than those specified in sub-clause (1), or which is inconsistent with the discharge of its functions as an insolvency professional agency.

### **III. DUTIES OF THE IIIPI**

6. (1) IIIPI shall maintain high ethical and professional standards in the regulation of its professional members.

(2) IIIPI shall -

- (a) ensure compliance with the Code and rules, regulations and guidelines issued thereunder governing the conduct of insolvency professional agencies and insolvency professionals;
- (b) employ fair, reasonable, just, and non-discriminatory practices for the enrolment and regulation of its professional members;
- (c) be accountable to the Board in relation to all bye-laws and directions issued to its professional members;
- (d) develop the profession of insolvency professionals;
- (e) promote continuous professional development of its professional members;
- (f) continuously improve upon its internal regulations and guidelines to ensure that high standards of professional and ethical conduct are maintained by its professional members; and
- (g) provide information about its activities to the Board.

(3) Matters that are considered by IIIPI necessary for the furtherance of the above objects:

- a) to borrow monies and raise loans and advances, either secured or unsecured, on such terms and conditions as to interest, repayment and security as are beneficial in the interest of the Company and in particular create charges, liens, encumbrances and mortgages in respect of all the immovable and movable properties of the Company for securing the due repayment of the principal and interest of the monies borrowed.;
- b) to purchase, acquire, develop, take on lease or on license all kinds of immovable properties and rights therein including the easements rights and to construct, rehabilitate, alter, adapt, improve, add to, develop or repair immovable properties of all kinds.
- c) to purchase or acquire or take on lease or license or hire or on bailment basis or in any other way any kind of moveable property including plant and machinery, equipment, furniture, fixtures, fittings, books, conveyances,

appliances, instruments, vehicle and technical knowhow and to sell, lease, mortgage or otherwise deal in any way with any such asset;

- d) to appoint Board of Directors, committees, advisory boards, executive, and other governing bodies for the Company as per the provisions of Insolvency and Bankruptcy Code, 2016 and Regulations & Bye - Laws framed thereunder.
- e) to open, operate, and maintain one or more accounts in the name of the Company with any nationalized or scheduled bank and issue suitable instructions for the operation of such accounts
- f) to enter into contracts necessary or desirable for the conduct of the Company's affairs, including knowledge partnership agreements, or non-disclosure agreement or indemnity or guarantee of any kind whatsoever.
- g) to construct, alter and maintain any infrastructure considered necessary for the use of its members and others or for any other purpose of the Company;
- h) to maintain a library or libraries for the use of its members;
- i) to publish information about its functions, list of its members, performance of its members and such other information as may be desirable;
- j) to nurture and develop talent in the area of insolvency resolution, liquidation and bankruptcy;
- k) to impart training to, and conduct seminars and other professional development programs for its members;
- l) to hold meetings and organize conferences, exhibitions, study circles or conventions for study, research and development of insolvency professionals;
- m) to make grants or other contributions to local or other bodies in furtherance of the objects of the Company;
- n) to recruit, employ, appoint, engage, hire including on deputation, academicians, research scholars, librarians, technicians, executives, managers, secretary, treasurer, officers, administrative and other staff and servants and establish and maintain provident funds, gratuity funds, pension and other funds, for the benefit of the employees and staff.;
- o) to pay remuneration and the reasonable expenses to the officers or employees of the Company, members or any other persons; and to pay pensions and gratuity , or to make other provisions for, ex- officers and employees of the Company;
- p) to indemnify the employees, staff, officers, executives and directors of the Company against all losses, costs, damages, claims and demands under any law or equity or proceedings or otherwise in respect of accidents, injury, death, or other contingencies caused in the discharge of their duties under the Company;

- q) to engage and retain the services of lawyers, accountants, bankers, architects, academicians, consultants, technicians, and other experts technical or otherwise, on such terms and conditions as may be determined as beneficial in the interest of the Company
- r) to do, alone or in conjunction with others, the foregoing and all such other lawful things, in any manner whatsoever, consistent with the provisions of these bye-laws, as may be incidental or conducive to promoting, furthering or protecting the interests, usefulness and efficiency of the Company and its members;
- s) to frame schemes, rules and regulations for attaining any of the objects of the Company and byelaws for conducting the affairs of the Company in line with the provisions of Insolvency and Bankruptcy Code, 2016 from time to time.

The doing of all such other lawful things as considered necessary for the furtherance of the above objects.

#### **IV. COMMITTEES OF THE IIIPI**

##### **Advisory Committee of Professional Members.**

- 7. (1) The Governing Board of IIIPI may form an Advisory Committee of professional members of the Agency to advise it on any matters pertaining to-
  - (a) the development of the profession;
  - (b) standards of professional and ethical conduct; and
  - (c) best practices in respect of insolvency resolution, liquidation and bankruptcy.
- (2) The Advisory Committee may meet at such places and times as the Governing Board of IIIPI may provide.

##### **Other Committees of the Agency.**

- 8. (1) The Governing Board shall constitute-
  - (a) one or more Membership Committee(s) consisting of such members as it deems fit;
  - (b) a Monitoring Committee consisting of such members as it deems fit;
  - (c) one or more Grievance Redressal Committee(s), with not less than three members, at least one of whom shall be a professional member of the Agency;
  - (d) one or more Disciplinary Committee(s) consisting of at least one member nominated by the Board.

(2) The Chairperson of each of these Committees shall be an independent director of the IIIPI.

## **V. PROFESSIONAL MEMBERSHIP**

### **Eligibility for Enrolment.**

9. No individual shall be enrolled as a professional member if he is not eligible to be registered as an insolvency professional with the Board:

*Provided* that the Governing Board of IIIPI may provide additional eligibility requirements for enrolment:

*Provided* further that such additional requirements shall not discriminate on the grounds of religion, race, caste, gender, place of birth or professional affiliation.

### **Process of Enrolment as Professional Member.**

10. (1) An individual may apply for enrolment as a professional member by submitting an application In Form "A".

(2) IIIPI shall examine the application in accordance with the applicable provisions of the Code, and rules, regulations and guidelines thereunder.

(3) On examination of the application, IIIPI shall give an opportunity to the applicant to remove the deficiencies, if any, in the application.

(4) IIIPI may require an applicant to submit additional documents, information or clarification that it deems fit, within reasonable time.

(5) IIIPI may reject an application if the applicant does not satisfy the criteria for enrolment or does not remove the deficiencies or submit additional documents or information to its satisfaction, for reasons recorded in writing.

(6) The rejection of the application shall be communicated to the applicant stating the reasons for such rejection, within thirty days of the receipt of the application, excluding the time given for removing the deficiencies or presenting additional documents or clarification by the IIIPI, as the case may be.

(7) The primary acceptance of the application shall be communicated to the applicant, along with the enrolment number.

(8) An applicant aggrieved of a decision rejecting his application may appeal to the Membership Committee of the Agency within thirty days from the receipt of such decision.

(9) The Membership Committee shall pass an order disposing of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.

### **Professional Membership Fee.**

11. The Agency may require the professional members to pay a fixed sum of money as its annual membership fee.

### **Register of Professional Members.**

12. (1) The IIIPI shall maintain a register of its professional members, containing their-
  - (a) name;
  - (b) proof of identity;
  - (c) contact details;
  - (d) address;
  - (e) date of enrolment and professional membership number;
  - (f) date of registration with the Board and registration number;
  - (g) details of grievances pending against him with the Agency;
  - (h) details of disciplinary proceedings pending against him with the Agency; and
  - (i) details of orders passed against him by the Board or Disciplinary Committee of the Agency.
  
- (2) The records relating to a professional member shall be made available for inspection to-
  - (a) the Board,
  - (b) the Adjudicating Authority,
  - (c) the committee of creditors in a corporate insolvency resolution process where the professional member has been appointed as an interim resolution professional, or
  - (d) any other person who has obtained the consent of the member for such inspection.

## **VI. DUTIES OF MEMBERS**

13. (1) In the performance of his functions, a professional member shall-
  - (a) act in good faith in discharge of his duties as an insolvency professional;

- (b) endeavour to maximize the value of assets of the debtor;
- (c) discharge his functions with utmost integrity and objectivity;
- (d) be independent and impartial;
- (e) discharge his functions with the highest standards of professional competence and professional ethics;
- (f) continuously upgrade his professional expertise;
- (g) perform duties as quickly and efficiently as reasonable, subject to the timelines under the Code;
- (h) comply with applicable laws in the performance of his functions; and
- (i) maintain confidentiality of information obtained in the course of his professional activities unless required to disclose such information by law.

14. IIIPI shall have a Code of Conduct that shall be consistent with, and that shall provide for all matters in the Code of Conduct as specified in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

## **VII. MONITORING OF MEMBERS**

15. IIIPI shall have a Monitoring Policy to monitor the professional activities and conduct of professional members for their adherence to the provisions of the Insolvency and Bankruptcy Code, 2016, rules, regulations and guidelines issued thereunder, IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies), Regulations 2016, the Code of Conduct and directions given by the Governing Board of IIIPI.

16. A professional member shall submit information, including records of ongoing and concluded engagements as an insolvency professional, in the manner and format specified by the Agency, at least twice a year.

17. The Monitoring Committee shall review the information and records submitted by the professional members in accordance with the Monitoring Policy.

18. The Monitoring Policy shall provide for the following –

- (a) the frequency of monitoring;
- (b) the manner and format of submission or collection of information and records of the professional members, including by way of inspection;
- (c) the obligations of professional members to comply with the Monitoring Policy;
- (d) the use, analysis and storage of information and records;
- (e) evaluation of performance of members; and
- (f) any other matters that may be specified by the Governing Board.

19. The Monitoring Policy shall –

- (a) have due regard for the privacy of members,
- (b) provide for confidentiality of information received, except when disclosure of information is required by the Board or by law, and
- (c) be non-discriminatory.

20. IIIPI shall submit a report to the Board in the manner specified by the Board with information collected during monitoring, including information pertaining to -

- (a) the details of the appointments made under the Code,
- (b) the transactions conducted with stakeholders during the period of his appointment;
- (c) the transactions conducted with third parties during the period of his appointment; and
- (d) the outcome of each appointment.

### **VIII. GRIEVANCE REDRESSAL MECHANISM**

21. (1) IIIPI shall have a Grievance Redressal Policy providing the procedure for receiving, processing, redressing and disclosing grievances against the Agency or any professional member of the Agency by-

- (a) any professional member of the Agency;
- (b) any person who has engaged the services of the concerned professional members of the Agency; or
- (c) any other person or class of persons as may be provided by the Governing Board.

(2) The Grievance Redressal Committee, after examining the grievance, may-

- (a) dismiss the grievance if it is devoid of merit; or
- (b) initiate a mediation between parties for redressal of grievance.

(3) The Grievance Redressal Committee shall refer the matter to the Disciplinary Committee, wherever the grievance warrants disciplinary action.

22. The Grievance Redressal Policy shall provide for-

- (a) the format and manner for filing grievances;
- (b) maximum time and format for acknowledging receipt of a grievance;
- (c) maximum time for the disposal of the grievance by way of dismissal, reference to the Disciplinary Committee or the initiation of mediation;



- (d) details of the mediation mechanism
- (e) provision of a report of the grievance and mediation proceedings to the parties to the grievance upon dismissal or resolution of the grievance;
- (f) action to be taken in case of malicious or false complaints;
- (g) maintenance of a register of grievances made and resolutions arrived at; and
- (h) periodic review of the Grievance Redressal Mechanism.

## **IX. DISCIPLINARY PROCEEDINGS**

23. IIIPI may initiate disciplinary proceedings by issuing a show-cause notice against professional members-

- (a) based on a reference made by the Grievances Redressal Committee;
- (b) based on monitoring of professional members;
- (c) following the directions given by the Board or any court of law; or
- (d) *suo moto*, based on any information received by it.

24. (1) IIIPI shall have a Disciplinary Policy, which shall provide for the following-

- (a) the manner in which the Disciplinary Committee may ascertain facts;
- (b) the issue of show-cause notice based on the facts;
- (c) disposal of show-cause notice by a reasoned order, following principles of natural justice;
- (d) timelines for different stages of disposal of show cause notice; and
- (e) rights and obligations of the parties to the proceedings.

(2) The orders that may be passed by the Disciplinary Committee shall include-

- (a) expulsion of the professional member;
- (b) suspension of the professional member for a certain period of time;
- (c) admonishment of the professional member;
- (d) imposition of monetary penalty;
- (e) reference of the matter to the Board, which may include, in appropriate cases, recommendation of the amount of restitution or compensation that may be enforced by the Board; and
- (f) directions relating to costs.

(3) The Disciplinary Committee may pass an order for expulsion of a professional member if it has found that the professional member has committed-

- (a) an offence under any law for the time being in force, punishable with imprisonment for a term exceeding six months, or an offence involving moral turpitude;
- (b) a gross violation of the Code, rules, regulations and guidelines issued thereunder, bye-laws or directions given by the Governing Board which renders him not a fit and proper person to continue acting as an insolvency professional.

*Explanation:* The violations referred to in sub-clause (b) include-

- (i) making a false representation or indulging in fraud for the purpose of obtaining creditors' approval under sections 28, 31, 111 or 153 of the Insolvency and Bankruptcy Code, 2016;
- (ii) contravening provisions of the Code in a manner which is actionable in accordance with sections 70(2) or 185 of the Insolvency and Bankruptcy Code, 2016;
- (iii) knowingly or wilfully committing or authorizing or permitting contravention of sections 14, 96, 101 or 124 of the Insolvency and Bankruptcy Code, 2016;
- (iv) contravening provisions of the Code inviting action in accordance with sections 71 or 187 of the Insolvency and Bankruptcy Code, 2016;
- (v) aiding or abetting any activity which is actionable in accordance with Chapter VII of Part II or Chapter VII of Part III of the Insolvency and Bankruptcy Code, 2016,
- (vi) providing unequal or differential treatment to the disadvantage of a party which cannot be justified with reference to the interests of the insolvency resolution, liquidation or bankruptcy process; or
- (vii) in any other case it deems fit.

(4) Any order passed by the Disciplinary Committee shall be placed on the website of the IIIPI within seven days from passing of the said order, and a copy of the order shall be provided to each of the parties to the proceeding.

(5) Monetary penalty received by the Agency under the orders of the Disciplinary Committee shall be credited to the Insolvency and Bankruptcy Fund constituted under section 224 of the Insolvency and Bankruptcy Code, 2016.

25. (1) The Governing Board of IIIPI shall constitute an Appellate Panel consisting of one independent director of the Agency, one member from amongst the persons of eminence having experience in the field of law, and one member nominated by the Board.

(2) Any person aggrieved of an order of the Disciplinary Committee may prefer an appeal before the Appellate Panel within thirty days from the receipt of a copy of the final order.

(3) The Appellate Panel shall dispose of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.

## **X. SURRENDER OF PROFESSIONAL MEMBERSHIP AND EXPULSION FROM PROFESSIONAL MEMBERSHIP**

### **Temporary Surrender of Professional Membership.**

26. (1) A professional member shall make an application for temporary surrender of his membership of the IIIPI at least thirty days before he-

- (a) becomes a person not resident in India;
- (b) takes up employment; or
- (c) starts any business, except as specifically permitted under the Code of Conduct;

and upon acceptance of such temporary surrender and on completion of thirty days from the date of application for temporary surrender, the name of the professional member shall be temporarily struck from the registers of the IIIPI, and the same shall be intimated to the Board.

(2) No application for temporary surrender of professional membership of the IIIPI shall be accepted if -

- (a) there is a grievance or disciplinary proceeding pending against the professional member before the IIIPI or the Insolvency and Bankruptcy Board of India, and he has not given an undertaking to cooperate in such proceeding; or
- (b) the professional member has been appointed as a resolution professional, liquidator or bankruptcy trustee for a process under the Insolvency and Bankruptcy Code, 2016, and the appointment of another insolvency professional may be detrimental to such process.

(3) A professional member may make an application to revive his temporarily surrendered membership when the conditions for temporary surrender as provided in sub-clause (1) cease to be applicable, and upon acceptance of the application for revival, the name of the professional member shall be re-inserted in the register of the Agency, and the same shall be intimated to the Board.

## **Surrender of Professional Membership**

27. (1) A professional member who wishes to surrender his membership of IIIPI may do so by submitting an application for surrender of his membership.
- (2) Upon acceptance of such surrender of his membership, and completion of thirty days from the date of such acceptance, the name of the professional member shall be struck from the registers of the Agency, and the same shall be intimated to the Board.
28. Any fee that is due to the Agency from a professional member surrendering his membership shall be cleared prior to his name being struck from the registers of the Agency.
29. IIIPI may refuse to accept the surrender of membership by any professional member if-
- (a) there is any grievance or disciplinary proceeding pending against the professional member before the Agency or the Board; or
  - (b) the professional member has been appointed as a resolution professional, liquidator or bankruptcy trustee for a process under the Code, and the appointment of another insolvency professional may be detrimental to such process.

## **Expulsion from Professional Membership.**

30. A professional member shall be expelled by the Agency –
- (a) if he becomes ineligible to be enrolled under bye-law 9;
  - (b) on expiry of thirty days from the order of the Disciplinary Committee, unless set aside or stayed by the Appellate Panel;
  - (c) upon non-payment of professional membership fee despite at least two notices served in writing;
  - (d) upon the cancellation of his certificate of registration by the Board;
  - (e) upon the order of any court of law.