Insolvency and Bankruptcy Code (Amendment) Bill 2017

Why in news?

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The Insolvency and Bankruptcy Code (Amendment) Bill 2017 was introduced in the Lok Sabha to replace an earlier ordinance.

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What was IBC, 2016?

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- The Insolvency and Bankruptcy Code (IBC) was enacted in 2016 to facilitate a time-bound resolution for ailing and sick firms.
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- It could either be through closure or revival, while protecting the interests of creditors.
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- Under IBC, either the creditor (banks) or the loaner (defaulter) can initiate insolvency proceedings.
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- It is done by submitting a plea to the adjudicating authority, in this case, the National Companies Law Tribunal (NCLT).
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- The resolution process was expected to aid in reducing the rising bad loans in the banking system.
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What is the need for changes?

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- There was a concern that the resolution process could leave scope for the defaulters to take advantage of the situation.
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- Notably, the provisions allowed them to come back into the management by paying a fraction of the defaulted amount.

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- Addressing this, an ordinance was brought in later, which prevented unscrupulous promoters from misusing the provisions of the IBC.
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- It thus barred from participating in the resolution process, the following:
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i. wilful defaulters
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ii. defaulters whose dues had been classified as NPAs for more than a year
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iii. all related entities of these firms
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- Consequently, many entities that acquired distressed assets were disqualified from the bidding process, as these were classified as NPAs.
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- Similarly, banks opting to convert their debt into equity under the RBI's restructuring scheme would have become promoters of these insolvent companies.
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- And hence these have also been barred from the resolution process.
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- These anomalies called for changes to make the debt resolution process easier and more efficient.
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What are the highlight provisions of the bill?

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- The amendment bill will replace the earlier ordinance on the Insolvency and Bankruptcy Code.
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- It has addressed concerns about some of the stringent provisions in the ordinance and seeks to streamline the law and plug loopholes.
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- Accordingly, now, wilful defaulters and existing promoters can become eligible to **submit a resolution plan** if they repay their dues and make their

bad loans operational.
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- Also, defaulters who had participated in the insolvency proceedings before the enactment of the ordinance can also **bid for stressed assets** provided they clear their dues in a month.
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- Notably, these promoters were earlier barred from taking part in the resolution process of the companies.
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- It also allows guarantors of insolvent firms to bid for other firms under the insolvency process.
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- Further, asset reconstruction companies, alternative investment funds (AIFs) such as private equity funds and banks can now participate in the bidding process.
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- The bill thus seeks to strike a balance in the trade-off between punishing wilful defaulters and ensuring a more effective insolvency process.
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- The bill also seeks to bring any individual who was in control of the NPA under the ambit of the insolvency code.
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- It lays out that the individual insolvency law will be implemented in phases.
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What are the concerns?

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- All bad loans may not be the result of wilful default, diversion or misappropriation of funds.
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- In a market driven economy, failure can be for various reasons.
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- These may include change in market conditions, severe competition, change in technology, change in government policies, etc.
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- The law thus does not recognize promoters facing genuine operational or financial difficulties because of external factors.
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- These factors for defaulting should also be recognised and resolutions provided for, to help bring the economy back on track.
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Source: The Hindu, Livemint

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