



**INSOL**  
INTERNATIONAL



**SARIPA**

# **PROGRAMME IN SOUTH AFRICAN INSOLVENCY LAW AND PRACTICE**

**COURSE BROCHURE 2023**

Leading to an award titled:

PROGRAMME IN SOUTH AFRICAN INSOLVENCY LAW AND PRACTICE



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This document forms part of the material for the **Programme in South African Insolvency Law and Practice** and its use is limited to this certificate programme.

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# INSOL INTERNATIONAL

INSOL International is a worldwide federation of national associations of accountants, lawyers and other professionals who specialise in turnaround and insolvency. There are currently over 40 Member Associations with over 10,500 professionals from 105 countries participating as members of INSOL International.

INSOL also has ancillary groups that represent the judiciary, regulators, lenders and academics. These groups play an invaluable role within INSOL and provide important forums for discussions of mutual problems.

INSOL was formed in 1982 and has grown in stature to become the foremost insolvency association in the world. It is an important source of professional knowledge, which is being put to use around the world on diverse projects to the benefit of the business and financial communities.

## **INSOL's vision and purpose**

INSOL with its Member Associations will take the leadership role in international turnaround, insolvency and related credit issues; facilitate the exchange of information and ideas; encourage greater international co-operation and communication amongst the insolvency profession, credit community and related constituencies.

## **Our goals:**

- To work with and involve our Member Associations in our activities.
- To implement research into international and comparative turnaround and insolvency issues.
- To participate in Government, NGO and intergovernmental advisory groups and to liaise with these institutions on relevant issues.
- To assist in developing cross-border insolvency policies, international codes and best practice guidelines.
- To provide a leadership role in international educational matters relating to turnaround and insolvency topics.
- To facilitate the exchange of knowledge amongst our Member Associations through our conferences and publications.
- Through these goals INSOL International aims to assist its members with vital research, by developing internationally accepted legislation and guidelines, and providing through conferences, our website and publications, a forum to exchange knowledge and learn from the experiences of other countries.



The South African Restructuring and Insolvency Practitioners Association NPC (SARIPA) is a non-profit organisation, originally constituted in 1986, with a countrywide membership of over 650 members. SARIPA is made up of qualified Insolvency Practitioners, Restructuring Professionals, and Business Rescue Practitioners, including Chartered Accountants, Lawyers, Bankers, Academics, Auctioneers, Tax Consultants and others involved in liquidation, insolvency, restructuring and business rescue practice. The South African courts, regulators and financial institutions have come to recognise SARIPA as a dynamic and proactive organisation effectively representing the business rescue and insolvency professions in South Africa.

SARIPA furthers its members' best interests through its ongoing commitment to transformation and the education of all relevant stakeholders. Through open dialogue with its members and other sectors of the economy, SARIPA builds on its achievements and confronts challenges, focusing on issues that directly affect how members manage their firms and practices.

SARIPA is very focused on providing high end, cutting edge educational content to its members and does so by the consistent provision of updated website content, webinars, training videos and by delivering high quality regional and national conferences. By doing so, SARIPA has enhanced the level of educational input to its members, thus elevating the know-how and ability of its members across the board.

Through years of dedicated service to the profession, SARIPA has assisted its members in making its mark on business rescue and insolvency practice, thereby collectively making real and significant contributions to the South African economy.

## 1. INTRODUCTION

Welcome to the Programme in South African Insolvency Law and Practice, offered by INSOL International in conjunction with the South African Restructuring and Insolvency Practitioner Association (SARIPA). The programme is aimed at providing registered candidates with comprehensive training in South African insolvency law and practice and covers all aspects of insolvency in South Africa.

INSOL International and SARIPA aim to provide an affordable, easily accessible course for anyone with an interest in this field that can be completed at a realistic pace with the use of modern technology. To this end, the course is presented entirely online and does not require registered candidates to travel anywhere in order to complete the course. Although this course was presented in this manner (and under the co-banner of INSOL International) for the first time in 2022, it is important to note that this course has been presented in various guises under the AIPSA and later SARIPA banner since 1995. The course is well established and literally hundreds of people have completed the course since its inception.

The programme is presented in 10-month cycles between 1 March and 31 December each year. The prescribed materials for the programme have been prepared by experts in practice and academia, reflecting a wide pool of specialised expertise. The programme is well placed to prepare inexperienced practitioners or new entrants to the field of insolvency by providing them with a sound theoretical and practical knowledge of the basics of South African insolvency law.

Apart from the comprehensive written materials provided to candidates on the course, there are also a number of live sessions, presented via Zoom or Microsoft Teams, where specialised lectures will be presented on discrete aspects of South African insolvency law. This brochure provides essential information regarding the contents and requirements of this programme.

Enrolments for the programme for 2023 **open on 1 October 2022** and **close on 28 February 2023**. The course formally commences on **1 March 2023**.

We are excited to be providing a course that is both affordable and easily accessible, and which can assist participants by providing them with a solid basis for future career development. If you have any questions regarding the course please do not hesitate to contact David Burdette at [David.Burdette@insol.org](mailto:David.Burdette@insol.org).

**On behalf of the Course Committee**

### **Important note**

**Successful completion of this programme does not automatically confer the designations of Insolvency Practitioner or Business Restructuring Professional in South Africa.**

## 2. COURSE AIMS AND OBJECTIVES

The programme focuses on providing a sound theoretical understanding of the basic principles of South African insolvency law. While the emphasis is on providing a sound theoretical understanding of the principles of South African insolvency law, the course will also provide candidates with a practical understanding of the issues at play, though at an introductory level.

While the course is presented entirely online, where necessary support and guidance will be provided to candidates registered on the course.

The aims and objectives of the course can be set out as follows:

### **Aims**

After having completed the programme, candidates should have a good understanding of the following:

- the background to the development of insolvency law in South Africa;
- the application of the various pieces of primary and secondary legislation governing insolvency law in South Africa;
- the operation of all primary and secondary legislation as well as case law governing bankruptcy, liquidation and corporate rescue in South Africa;
- the drafting of liquidation and distribution accounts in South Africa;
- the rules relating to cross-border insolvency in South Africa.

### **Objectives**

After having completed the course, candidates on the course should be able to:

- answer direct and multiple-choice type questions relating to the content of the course;
- be able to write an essay on any aspect of insolvency law in South Africa;
- be able to answer questions based on a set of facts relating to insolvency Law in South Africa;
- be able to draft a liquidation and distribution account based on a predetermined set of facts.

### 3. COURSE COMMITTEE

The Course Committee consists of the following individuals:

<b>Dr David Burdette</b>	Course Leader / Administrator, INSOL International, UK
<b>Dr Eric Levenstein</b>	Director at Werksmans Attorneys / Chairperson of SARIPA, South Africa
<b>René Bekker</b>	COO of SARIPA, South Africa
<b>Prof Juanitta Calitz</b>	Associate Professor, University of Johannesburg / Board Member of SARIPA, South Africa
<b>Mr Zaheer Cassim</b>	Cassim Law and INSOL Fellow, South Africa

### 4. COURSE STRUCTURE AND OTHER INFORMATION

The course consists of a single module with the content organised into different parts. The programme is presented over the course of one year.

#### Language medium

The course is presented in English. Where there is doubt regarding an applicant's proficiency in the English language, INSOL International reserves the right to request the submission of an IELTS or TOEFL certificate as follows:

- IELTS: minimum score of 6.5;
- TOEFL: Reading: Intermediate (15-21 out of 30); Writing: Fair (17-23 out of 30).

#### Pass marks

The pass mark for the programme is 50 percent.



### Level of achievement

Successful candidates will be issued with a certificate indicating they have passed the programme. The level of achievement will also be included. These are:

- Certificate awarded with a Pass – 50% or more;
- Certificate awarded with Merit – 65% or more; and
- Certificate awarded with Distinction – 75% or more.

### Re-sit assessments and deferrals

Re-sit assessments and deferrals will only be allowed if there are exceptional circumstances. What amounts to “exceptional circumstances” is defined in the Course Handbook. **A fee of £100 will be charged for re-sit assessments.** However, candidates who submit the final assessment (examination) but who fail, will be allowed to re-sit the assessment free of charge. Only one re-sit assessment / examination will be allowed. If a candidate fails the re-sit examination they fail the course and will have to re-enrol in a subsequent year in order to attempt the examination again.

Re-sit assessments / examinations will take place in February 2024.

### Course duration

The course will be presented in 10-month cycles between 1 March and 31 December each year.

### Application deadline

The deadline for applications for the 2023 course is **28 February 2023. Please note that NO late applications will be considered, no matter the circumstances.**

The online application portal will open on **1 October 2022** and can be accessed by going to [www.insol.org](http://www.insol.org). Once there, click on the “Education” tab at the top of the page and then click on the “SARIPA Courses” tile. On the SARIPA Course web page, click on the “Apply Now” button under the heading “Programme in South African Insolvency Law and Practice” – this will take you to the online registration form for this course. Please ensure that you have the documents required for upload at hand when starting the enrolment process.

Applying for a place on the course can only be made online and you will be required to register as a user on the system if you are not already a member of INSOL International. Applicants are not required to become members of INSOL International in order to register as a user on the system, nor is there any charge for doing so.

### Course content (curriculum)

The course content / curriculum can be found in **Appendix A** to this brochure.

### CPD points

Successful completion of this programme confers the following CPD points in South Africa:

- Insolvency Practitioners - **12 CPD points**
- Business Rescue Professional - **1.5 CPD points**

## 5. ADMISSION REQUIREMENTS

The admission requirements / entry criteria for the course are as follows:

- 6.1 A minimum of a matriculation certificate (or equivalent from a different jurisdiction) and at least two (2) years' practical experience post-matriculation;\*

**OR**

A higher qualification than a matriculation certificate (such as a bachelor's degree in law, commerce or business management or related fields);\*\*

**AND**

- 6.2 Proficiency in the English language;\*\*\*

**AND**

- 6.3 Access to appropriate internet facilities (that is, internet facilities of a speed capable of downloading PDF documents and streaming videos).

\* Applicants applying on the basis of a matriculation certificate must have **at least two years' working experience post-matriculation**. Such experience must be articulated in the applicant's CV which must be uploaded as part of the application process. **If you are unsure as to whether you meet the entry requirements for the course, please contact David Burdette at [David.Burdette@insol.org](mailto:David.Burdette@insol.org).**

\*\* Applicants applying on the basis of a higher qualification than a matriculation certificate, must upload their degree or other certificates as part of the application process.

\*\*\* INSOL International / SARIPA reserves the right to request an IELTS or TOEFL certificate of proficiency where it appears that an applicant's English proficiency may be inadequate for the purposes of completing the course. **Please note that IELTS or TOEFL certificates need not be submitted unless specifically requested.**

## 6. COURSE ASSESSMENTS AND EXAMINATION

Various forms of assessment will be used to assess candidates during the course.

### Continuous self-assessment

The prescribed guidance text (prescribed notes) contain numerous self-assessment questions which candidates can use to chart their progress and understanding of the course materials as they progress through the work. Continuous self-assessments do not count towards a candidate's marks on the course.

### Previous examination paper

In order to assist candidates with their preparations for the submission of the formal examinations, the examination papers (Papers 1 and 2) for the 2022 course will be provided to candidates, together with the model answers.

### Summative assessment (formal examination)

Candidates are required to complete two summative assessments (formal examinations). The two assessments carry an even weight and in order to pass the Programme in South African Insolvency Law and Practice **candidates need to pass both papers with 50 percent or more**. So, for example, a candidate who scores a mark of 60% on one paper and 40% in the other, will not pass the course despite having an average mark of 50%. **A score of 50% or more for both papers is required**. Candidates who pass one paper with a score of 50% or more but who score less than 50% for the other paper, will have to write a re-sit assessment (examination) for the paper for which they obtained a mark below 50%. Candidates who do not score 50% or more for either paper will have to write a re-sit assessment (examination) for both papers. The same rules apply to re-sit assessments (examinations) as far as pass marks are concerned.

The dates of the summative assessments (formal examinations) are as follows:

#### Paper 1 (Theory)

This summative assessment (examination) will be made available at **13:00 SAST on Thursday 23 November 2023** and must be submitted by **13:00 SAST on Friday 24 November 2023**. This allows candidates 24 hours within which to complete and upload the assessment. Please note that the submission portal will close at 13:00 SAST on 24 November 2023 and no late submissions will be accepted.

### Paper 2 (Practical)

This summative assessment (examination) will be made available at **13:00 SAST on Tuesday 28 November 2023** and must be submitted by **13:00 SAST on Wednesday 29 November 2023**. This allows candidates 24 hours within which to complete and upload the assessment. Please note that the submission portal will close at 13:00 SAST on 29 November 2023 and no late submissions will be accepted.

### Marking of assessments

Assessment marks will be returned to candidates no later than **four weeks after the final submission date of the assessment**.

**Important note: No extensions for the submission of assessments will be granted to candidates, no matter the circumstances. Candidates who are unable to sit for the final summative assessments (examinations) must apply for a re-sit examination prior to the date of the examinations where possible. Re-sit examinations will only be granted in exceptional circumstances, such as illness. The Course Handbook sets out the meaning of “exceptional circumstances” and determines the procedure to be followed.**

### Re-marking of assessments

Where candidates are dissatisfied with the mark awarded for a particular paper a re-mark may be requested, although **a fee of £30 will be payable for every re-mark requested**. In the case of re-marks, the original script will be sent to an independent marker to be re-marked *de novo*. The script that has already been marked will not be provided to the re-marker. The mark awarded by the re-marker will be final and no further re-marks will be undertaken.

## 7. CONTACT SESSIONS: TIMES AND DATES

There are a number of supporting lectures / contact sessions that will be presented via the Zoom or Microsoft Teams platform. **These sessions will be recorded and made available to candidates on the course for the duration of the programme.**

The programme below is subject to change without prior notice. Lecturers for the individual sessions will be announced in the Course Handbook that will be available from 1 March 2023.

The lecture programme for 2023 is as follows (**please note that the programme is subject to change** - the final lecture programme will be provided in the Course Handbook):

DATE	TOPIC
<b>Tuesday</b> <b>7 March 2023</b> <b>17:30 to 18:30</b>	Welcome, introduction to the course and orientation
<b>Tuesday</b> <b>21 March 2023</b> <b>17:30 to 19:00</b>	Introductory concepts and an overview of the South African insolvency law system
<b>Tuesday</b> <b>4 April 2023</b> <b>17:30 to 19:00</b>	Sequestration and liquidation procedures; application of insolvency law to winding-up
<b>Tuesday</b> <b>18 April 2023</b> <b>17:30 to 19:00</b>	Assets of the insolvent estate; assets of the solvent spouse; consequences of sequestration and liquidation; execution of judgments and attachments
<b>Tuesday</b> <b>2 May 2023</b> <b>17:30 to 19:00</b>	Unexecuted contracts
<b>Tuesday</b> <b>16 May 2023</b> <b>17:30 to 19:00</b>	Impeachable transactions
<b>Tuesday</b> <b>30 May 2023</b> <b>17:30 to 19:00</b>	Liquidation of companies
<b>Tuesday</b> <b>13 June 2023</b> <b>17:30 to 19:00</b>	Composition; rehabilitation; partnerships; cross-border insolvencies

<p><b>Tuesday</b> <b>27 June 2023</b> <b>17:30 to 19:00</b></p>	<p>High-level overview of the business rescue procedure and section 155 compromises in terms of the Companies Act 2008</p>
<p><b>Tuesday</b> <b>11 July 2023</b> <b>17:30 to 19:00</b></p>	<p>Provisional trustees and liquidators; appointment and powers and duties of trustees and liquidators</p>
<p><b>Tuesday</b> <b>25 July 2023</b> <b>17:30 to 19:00</b></p>	<p>Meetings and the proof of claims</p>
<p><b>Tuesday</b> <b>15 August 2023</b> <b>17:30 to 19:30</b></p>	<p>Interrogations (examinations)</p>
<p><b>Tuesday</b> <b>29 August 2023</b> <b>17:30 to 19:30</b></p>	<p>Secured creditors; encumbered asset accounts; free residue account</p>
<p><b>Tuesday</b> <b>12 September 2023</b> <b>17:30 to 19:00</b></p>	<p>Distribution and contribution accounts; drafting of liquidation and distribution accounts</p>
<p><b>Tuesday</b> <b>26 September 2023</b> <b>17:30 to 19:30</b></p>	<p>Drafting of liquidation and distribution accounts – practical exercise</p>
<p><b>Tuesday</b> <b>10 October 2023</b> <b>17:30 to 19:30</b></p>	<p>Drafting of liquidation and distribution accounts – practical exercise (continued)</p>

## 8. COURSE FEES AND APPLICATIONS FOR ADMISSION

### Course fees

The course fees are set as follows:

SARIPA members - **£600**

INSOL International members (who are not members of SARIPA) - **£900**

All other applicants - **£1,000**

#### Important notes in regard to applications:

(i) **Please note that the course fee is payable in pound sterling (GBP).** The approximate fee in South African rand (ZAR) or any other currency can be determined by consulting a currency conversion website that provides currency exchange rates on any given date. INSOL International and / or SARIPA are not liable for any gains or losses occasioned by the fluctuating nature of international currency exchange rates. Quotations for a price in South African rand will not be provided as the fee is payable in pound sterling.

(ii) In order to qualify for the SARIPA member discount, applicants must already be approved members of SARIPA. The SARIPA member discount cannot be applied to pending membership applications.

On the "Evidence" page of the online application form, where supporting documents have to be uploaded, there is a checkbox where the question is posed: "Are you a member of SARIPA?". In order to obtain the 40% discount off the course fee, applicants who are members of SARIPA are required to check this box. If the box is not checked, the 40% discount will not be applied. **It is incumbent upon the applicant to check this box.**

(iii) In order to qualify for the **INSOL member discount**, applicants need to already be a member of INSOL International at the time application is made for a place on the course. Member discounts cannot be applied retrospectively. The INSOL member discount is applied automatically by the online registration system; consequently, **members should ensure that they login and apply for a place on the course using the e-mail address associated with their INSOL membership.** Not doing so will result in the system not recognising the applicant as a member and the 10% discount will not be applied.

## Payment of fees

Payment of the course fee is made online as part of the application process. Applicants have a choice when it comes to payment, either by debit / credit card or by BACS (electronic funds transfer) - there is a dropdown menu on the payment page.

### *Payments by card*

Applicants who indicate that they wish to pay by card are advised that payment is taken after an applicant's application has been **approved**, not at the time they submit their application (despite the application form stating "submit payment"). However, with card payments applicants must ensure that they have sufficient funds at the time their application is submitted, as approval of the application automatically triggers payment where a card payment has been indicated. INSOL International cannot be expected to first wait for funds to be transferred to the account linked to the card.

### *Payments by BACS (electronic funds transfer)*

For those who wish to pay their fees by BACS (electronic fund transfer, sometimes referred to as Swift payments), please **select BACS** from the drop-down menu under the payment options. This option should be used, for example, where an applicant's employer is paying the course fee. INSOL International's banking details for payments by BACS appear on the invoice that will be generated upon approval of the applicant's place on the course.

**The course fee cannot be paid in instalments** unless the course fee is paid in full by the time the course commences on 1 March 2023. Applicants who wish to pay in instalments must pre-arrange this with the Course Leader prior to applying for a place on the course.

Registered candidates will only be granted access to the course materials **after the full fee has been paid**. A candidate's right to participate in the programme only arises upon timely payment of the full course fee. The options for payment are provided as part of the online payment system, which forms part of the application process.

## Application deadline

Applications for admission to the course will **open on 1 October 2022 and close on 28 February 2023**. Late applications for admission to the course will not be considered. Applications for admission will be considered as they are received, with applicants being advised of the outcome as soon as possible after having applied. There is no application fee for applying for a place on the course, although applicants will be requested to register as a user on the INSOL International website if they are not members of INSOL International (there is also no fee payable to register as a user on the INSOL International website).

## How to apply and application process

This course is open to anyone who meets the admission criteria. Applicants who meet the admission criteria may apply online at any time between **1 October 2022 and 28 February 2023**.



In order to access the application form, prospective applicants should go to [www.insol.org](http://www.insol.org). Once there, click on the "Education" tab at the top of the page and then on the "SARIPA Courses" tile. When the SARIPA Courses web page opens, the two courses available are visible. Click on the "Apply Now" button under the heading "Programme in South African Insolvency Law and Practice" - this will take you to the online registration form.

As the application system is automated, only online applications will be considered. The online application system states clearly the supporting documents that need to be provided and applicants will be unable to have their applications approved if the relevant supporting documents have not been uploaded. The online application system has a "save and continue" function, enabling applicants to exit the online application form (before submission) without losing information that has already been entered.

In order to facilitate efficient processing, applications will only be considered once all the correct requested documents (such as copies of degree certificates, etc) have been uploaded as part of the application process. Applications received without the correct supporting documentation will be rejected and the applicant concerned will need to re-apply. Copies of original documents must be uploaded in PDF format (these need not be certified as true copies, unless specifically requested).

Once the application for admission to the programme has been approved, the applicant will receive electronic confirmation of registration from INSOL International. **This confirmatory e-mail will not only confirm an applicant's place on the course, but will also contain important information such as the student ID allocated to the applicant, and instructions on how to log on to the course web pages once the programme commences on 1 March 2023.**

Please note that it is the policy of INSOL International not to return to applicants any documentation or materials sent in support of an application. These will be destroyed in compliance with English data protection legislation.

### **Consideration of individual applications**

Each application will in the first instance be considered by the Course Leader. Where there is doubt regarding whether an applicant meets the admission criteria, the application will be submitted to the Course Committee for consideration. Any determination made by the Course Committee in this regard is final and no correspondence will be entered into.

### **Access to course materials**

Once an online application has been approved and full payment of the course fee has been made, registered candidates will be able to access, **from 1 March 2023**, the course and course materials via their course dashboard on the INSOL International website. In order to gain access to the course materials on 1 March 2023, registered candidates should access the INSOL International website ([www.insol.org](http://www.insol.org)) and click on the "Education" tab. Once on the Education web pages, click on the "My Courses" tile, which will take you to a page with a red button stating

“My Courses”. Clicking on the red button will open a page where the “Programme in South African Insolvency Law and Practice 2023” tile will be visible. Clicking on this tile will take you to your student dashboard where the Course Handbook and the course content will be available.

### **Cancellation by an applicant**

Notification of cancellation must be received in writing (e-mail is acceptable, but is only effective if receipt has been confirmed by INSOL International). Cancellations will not be reviewed or processed until they are received in writing. Cancellations by telephone will not be accepted. If written notification of cancellation is received up to 30 business days prior to the start of the programme, a participant will be issued a credit, less a processing fee of £100. Cancellations received within 30 business days of the start of the programme will not be refunded.

### **Substitution policy**

The substitution of one candidate for another on the programme is permitted up to five business days before the start of the programme (that is, five business days before 1 March 2023). A request for substitution must be submitted in writing (e-mail is acceptable, but is only effective if receipt has been confirmed by INSOL International). Substitution requests will not be reviewed or processed until they are received in writing. Requests for substitution by telephone will not be accepted. The substitute applicant must fulfil all the admission requirements for the course and will be required to apply to be admitted to the course by using the online registration system.

### **Confirmation of cancellation or substitution**

If no written confirmation of the cancellation or substitution is received within 24 hours, please contact INSOL International and ensure the cancellation or substitution request has been received.

## **9. OUTCOME OF PARTICIPATION**

Upon successful completion of the programme, candidates will be issued with a certificate containing the following designation: **Programme in South African Insolvency Law and Practice**.

In addition:

- a full list of persons who have passed the course will be listed on the INSOL International website (under the SARIPA Programme in South African Insolvency Law and Practice tab in the Education section of the website), including the year in which the candidate passed the course and their country of origin;

- a full list of candidates who have passed the course each year will be published in the second or third quarter publication of INSOL World.

## 10. DISCLAIMER AND MISCELLANEOUS MATTERS

### General

The information and data contained in this brochure is provided by INSOL International and SARIPA and may be used for informational purposes only. While INSOL International and SARIPA have done everything in their power to ensure that the content of this brochure is accurate and reliable, neither INSOL International nor SARIPA can guarantee the accuracy, validity or reliability of this brochure. No right can be derived from the information contained in this brochure and users should always check to confirm the accuracy of the information with the relevant authorised bodies of INSOL International and SARIPA.

INSOL International and SARIPA are not responsible for any changes in the information provided in this brochure that might occur after publication. Potential candidates should always refer to the INSOL International or SARIPA office for the latest available information.

Literature provided as part of the course materials may provide links to other websites. INSOL International and SARIPA make no representation whatsoever regarding the content of any other websites which you may access whilst participating in this programme, as INSOL International and SARIPA have no control over the content of these websites and cannot guarantee the reliability or accuracy of any external information to which it is linked.

### Disclaimer

INSOL International and / or SARIPA cannot accept any liability for any loss, cost or expense suffered or incurred by any person if such loss is caused or results from the act, default or omission of any person other than an employee or agent of INSOL International and / or SARIPA. Nor can INSOL or SARIPA accept liability for losses suffered by reason of war, including threat of war, riots, and civil strife, terrorist activity, natural disaster, weather, fire, flood, drought, technical, mechanical or electrical breakdown, industrial disputes, government action, regulations, pandemics or technical problems that may affect the services provided in connection with the Programme in South African Insolvency Law and Practice. English Law shall govern the contract between candidates and INSOL International / SARIPA and any disputes shall be the exclusive preserve of the English Courts.

### Procedural regulations

The Course Committee may remove any participant from the programme, decline to award the certificate, or withdraw the award of the certificate, if, at any stage, before or after the award of the certificate, it is established that:

- the candidate has engaged in an unfair practice (for example cheating, including plagiarism) in relation to the programme; or
- the requirements for admission to the programme have not been met; or
- the candidate has brought the profession into disrepute.

**No refund shall be given if the participant does not complete the programme, regardless of the reason.**

#### **Cancellation of the Programme in South African Insolvency Law and Practice by the organisers**

In the event that the course is cancelled by INSOL International and SARIPA, or by any reason or any factor outside the control of INSOL International and SARIPA cannot take place, the amount of the registration fee shall be refunded. INSOL International's liability shall be limited to that refund, and INSOL International shall not be liable for any other loss, cost or expense, howsoever caused, incurred or arising.

## APPENDIX A

### COURSE CURRICULUM

The curriculum for the Programme in South African Insolvency Law and Practice is set out in broad terms below. The curriculum is subject to change prior to the commencement of the programme.

1. **An introduction to South African insolvency law and practice**
2. **Institutional framework (Court system and oversight of the insolvency process)**
3. **Winding-up and sequestration (general introduction)**
4. **Sequestration** (estates that can be sequestrated; jurisdiction; voluntary surrender; compulsory sequestration)
5. **Winding-up and business rescue (generally)**
6. **Winding-up of other entities**
7. **Application of insolvency law to winding-up** (the steps to be taken to decide whether the insolvency law applies)
8. **Company “unable to pay its debts”** (when a company is deemed “unable to pay its debts”; sections that apply only where a company is “unable to pay its debts”; the time at which a company’s ability to pay its debts is determined)
9. **Date of sequestration and commencement of liquidation** (date of sequestration; commencement of liquidation; the importance of section 348 of the Companies Act 1973; voluntary winding-up)
10. **Setting aside of orders, appeal and review** (setting aside or rescission of orders; application by Master of the High Court to set aside sequestration order; appeal against orders; leave to appeal; effect of appeal against final order; effect of appeal against winding-up order; review)
11. **Vesting of the estate and excluded assets** (custody and control of company assets; vesting of company assets; vesting of assets of insolvent debtor; practical effect of vesting in Master of the High Court; duty of insolvent upon issue of

sequestration order; copies of sequestration order; expiry of caveats; further registration of caveats; recovery of immovable property unlawfully disposed of; attachment by sheriff; reports by the sheriff; curator *bonis* is accountable; interest of insolvent debtor in assets; vesting upon removal of trustee or vacation of office; rules to determine what property forms part of the insolvent estate)

12. **Property in possession of insolvent after sequestration** (general rule regarding after-acquired property; remuneration; funds obtained fraudulently; property in possession of insolvent deemed to belong to estate; possession by person who became creditor after sequestration; the right to an inheritance; compensation, pension, etc; indemnity; new estate)
13. **Effect of sequestration on insolvent's spouse** (marriages in community of property; application of section 21 of the Insolvency Act 1936 where parties not married out of community of property; vesting of assets of spouse in terms of section 21 of the Insolvency Act 1936; trustee needs warrant to take possession of property of solvent spouse; sale of property of solvent spouse; creditors of the solvent spouse; proof that spouse is entitled to release of property; benefit under antenuptial contract; property acquired by a title valid against creditors; sequestration of separate estates of spouses; marriage subject to accrual system)
14. **Effect of sequestration on insolvent personally** (disqualifications due to insolvency; employment of insolvent; contracts entered into by insolvent; validity of contracts entered into by insolvent; vesting of property acquired in terms of contract by insolvent; trustee's consent to carry on a trade; obligations of an insolvent)
15. **Effect of insolvency on the execution of judgments and other civil proceedings** (effect on attachments and sales in execution; trustee not entitled to money paid over on behalf of creditors; execution against property of insolvent stayed; continuation of execution by order of court; attachment and execution after winding-up order is void; execution of company's assets is put into force by attachment; sale by public auction completed upon the fall of the hammer; proceedings by liquidator or trustee; effect of sequestration on civil proceedings; claim for costs in connection with proceedings; lapsing of proceedings against insolvent debtor; stay of proceedings after presentation of winding-up application; continuation of suspended proceedings after liquidation order; continuation of proceedings by debtor; institution of legal proceedings against company after liquidation; arbitration proceedings)

16. **Impeachable dispositions and related remedies** (common law: the *actio Pauliana* and piercing of the corporate veil; statutory impeachable dispositions; dispositions not made for value; voidable preferences; application to companies; application to close corporations)
17. **Effect of sequestration on uncompleted contracts** (common law: general rule when a party to a contract is sequestered; contracts of sale of immovable property; sale of movable property; leases; contracts of service; other contractual obligations terminated by sequestration; companies and close corporations)
18. **Provisional trustee and liquidator** (appointment of provisional trustee; disqualification and vacation of office; duties and powers of provisional trustee; appointment, duties and powers of provisional liquidator; accounting by and remuneration of provisional trustee or liquidator; provisional trustee's powers regarding uncompleted contracts)
19. **Appointment and powers of final trustee** (general; directions by the Master of the High Court; directions to make election regarding acquisition of immovable property)
20. **Powers of final liquidator** (general; directions by creditors and the Master of the High Court)
21. **General duties of trustee or liquidator** (taking charge of property; administration of assets; recovery of debts; continuation of business; sale of assets)
22. **Meetings** (voting at meetings; voting with or without a power of attorney; first meeting; second meeting; general meeting; special meeting)
23. **Proof of claims** (general; companies; lodging of claims; proof required, suspicious and disputed claims; person who may prove a claim; liquidated claim; cause arose before sequestration; interest on claims; debts payable after sequestration; secured claims; prescribed claims and prescription of claims; suretyship; technical objections; late proof of claims; further consideration of claims after the meeting)
24. **Interrogations (examinations)** (types of interrogations; relevant factors to decide on the type of interrogation; issue of summonses and other preparations; pending criminal trial; pending civil proceedings)

25. **Secured creditors** (mortgage bond over immovable property; mortgage over movable property; pledge; landlord's legal hypothec; right of retention; goods delivered in terms of an instalment sale transaction; special statutory rights; realisation of securities; disputes in respect of security for a claim; meaning of proceeds of security; distribution of proceeds of security)
26. **Application and distribution of the free residue** (section 96 of the Insolvency Act 1936 - funeral and death-bed expenses; section 97 of the Insolvency Act - costs of sequestration; section 98 of the Insolvency Act - costs of execution; section 98A of the Insolvency Act - amounts due to certain employees and funds; section 99 of the Insolvency Act - preference in regard to certain statutory obligations; section 100 of the Insolvency Act - salaries and certain fees; section 101 of the Insolvency Act - income tax; section 102 of the Insolvency Act - general mortgage bonds; section 103 of the Insolvency Act - concurrent claims; surplus after payment of all costs and claims with interest)
27. **Contribution by creditors** (companies; concurrent creditors; secured creditors; preferent creditors; withdrawal of claims; creditor who applied for the sequestration order; collection of contribution)
28. **Compositions** (common-law composition; composition in terms of the Insolvency Act 1936)
29. **Rehabilitation (discharge)** (automatic rehabilitation; rehabilitation by the court; report by trustee; effect on claims and assets; declaratory orders; property that did not vest in the estate or re-vested in the insolvent; property vested in the trustee; notice of application; transfer of property that vested in the trustee)
30. **Partnerships** (common law; Insolvency Act 1936; insolvency of partner only; composition, rehabilitation and offences)
31. **Liquidation of companies and close corporations** (the application of the Insolvency Act in the event of liquidations; the liquidation of a company; liquidation of close corporations; winding-up of a company and a close corporation distinguished; statutory composition)
32. **Business rescue and compromises** (a brief high-level overview of the business rescue process in the context of insolvency law as a whole, highlighting the intersection between insolvency law and business rescue)



33. **Offences** (duty of trustee or liquidator to report offences; existence and whereabouts of property; problems regarding proof of offences; warn insolvent during interview; concealment of liabilities, etc; failure to submit account or pay monies after confirmation of account)
34. **Estate accounts** (time for submission of accounts; advertising of account; objections to account; confirmation of accounts; distribution of funds; finality of confirmation; form and contents of accounts)
35. **Ethics** (impartiality, objectivity and independence; integrity; professionalism)
36. **Cross-border insolvencies** (Cross-Border Insolvency Act 42 of 2000; common-law; a South African trustee and foreign assets; recognition in South Africa of a foreign trustee)



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