

PROGRAMME IN SOUTH AFRICAN BUSINESS RESCUE

COURSE BROCHURE 2023

Leading to an award with the designation:

PROGRAMME IN SOUTH AFRICAN BUSINESS RESCUE



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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 Business Rescue**, offered by INSOL International in conjunction with the South African Restructuring and Insolvency Practitioners Association (SARIPA). The programme is aimed at providing registered candidates with comprehensive training in South African business rescue and covers all aspects of the procedure.

INSOL International and SARIPA aim to provide an affordable, practical and 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. This is the first time that a bespoke course in South African business rescue will be presented by SARIPA, in collaboration with INSOL International.

The programme is presented over a period of 10 months 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 participants who wish to practice in the field of business rescue by providing them with a sound theoretical and practical knowledge of the basics of the South African business rescue procedure.

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 business rescue. This brochure provides essential information regarding the content of and requirements for participating in this programme.

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

On behalf of the Course Committee

2. COURSE AIMS AND OBJECTIVES

The programme focuses on providing a sound theoretical understanding of the basic principles of the South African business rescue procedure. While the emphasis is on providing a sound theoretical understanding of the principles, the course will also provide candidates with a sound practical understanding of the business rescue process.

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 course, candidates should have a good understanding of the following:

- background to the development of the business rescue process in South Africa, as contained in Chapter 6 of the 2008 Companies Act;
- application of the various pieces of primary and secondary legislation, as well as case law, governing corporate rescue in South Africa;
- understanding basic financial statements and information required to propose a business rescue plan and the approval of such plan;
- effective engagement with stakeholders;
- ethical conduct of business rescue practitioners;
- understanding the various legislation and rules for bringing a company under supervision as well as the various legislation and rules bringing the process to an end.

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;
- write an essay on any aspect of business rescue in South Africa;

- answer questions based on a set of facts relating to business rescue in South Africa;
- draft a business rescue plan based on a predetermined set of facts.

3. COURSE COMMITTEE

The Course Committee consists of the following individuals:

Dr David Burdette	Course Leader / Administrator, INSOL International, UK
Dr Eric Levenstein	Director at Werksmans Attorneys / Chairperson of SARIPA, South Africa
Ms René Bekker	COO of SARIPA, South Africa
Mr Zaheer Cassim	Cassim Incorporated Attorneys / INSOL Fellow, South Africa
Ms Jo Mitchell-Marais	Deloitte / SARIPA Board Member / 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 ten months.

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 all assessments and assignments on the programme is 50%.

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 deferments

Re-sit assessments and deferments will only be allowed if there are exceptional circumstances. What amounts to "exceptional circumstances" is dealt with 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. Once there, click on the "Education" tab at the top of the page and then click on the "SARIPA Courses" tile. Clicking on the SARIPA Courses tile will take you to the SARIPA Courses web page, where there are two courses on offer, namely the "SARIPA Programme in South African Insolvency Law and Practice" and the "SARIPA Programme in South African Business Rescue". Under each course there is a downloadable brochure as well as a button for making application for a place on the course. The button for making applications will be available from 1 October 2022. On or after 1 October 2022, click on the "Apply Now" button in order to apply for a place on the course - this will take you to the online registration form. Please

ensure that you have the documents required for upload at hand when starting the enrolment process. See paragraph 8 below for detailed instructions on how to apply.

Applying for a place on the course can only be made online and you will be required to register as a user on the INSOL International website 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:

- Business Rescue Professional - **12 CPD points**

5. ADMISSION REQUIREMENTS

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

- 6.1 A bachelor's degree (or equivalent certificate / diploma / other qualification) in law, commerce or business management (or related fields);*

OR

A minimum of **five (5) years' experience** in the field of restructuring, insolvency and turnarounds where the applicant does not have the qualification(s) referred to above.;**

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 bachelor's degree or higher qualification must upload a copy of their degree(s) / certificate(s) 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.**

- ** Applicants applying on the basis of having **five (5) years' or more experience in the field of restructuring, insolvency and turnarounds**, must provide a *curriculum vitae* that evidences such experience. Applicants are required to upload their CV 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.**

- *** 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) contains 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. On this course, the self-assessment questions are based on a case study which will take candidates on the course on a journey through the business rescue process from start to finish.

Formative assessment (practice examination)

In order to assist candidates with their preparations for the submission of the formal examination, one opportunity will be given to candidates to submit a formative (practice) examination that will be written for the final examination.

The practice examination will be made available at **13:00 SAST on 12 October 2023 and must be submitted by 13:00 SAST on 13 October 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 13 October 2023 and no late submissions will be accepted.

Submission of the practice examination is not compulsory, but all candidates are urged to submit this assessment in order to identify any shortcomings prior to the submission of the final examination. Full feedback will be provided to students who submit the practice examination and the model answer to the assessment will be uploaded to the course web pages once the closing date for submissions has passed.

Summative assessment (formal examination)

Candidates are required to complete one summative assessment (formal examination). In order to pass the Programme in South African Business Rescue, **candidates need to pass with 50 percent or more**. The same rule applies to the re-sit assessment (examination) as far as pass marks are concerned.

The summative assessment (examination) will be made available at **13:00 SAST on 16 November 2023** and must be submitted by **13:00 SAST on 17 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 17 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 assessment (examination) must apply for a re-sit examination prior to the date of the examination 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

In addition to the extensive materials that will be provided to candidates on the course, there are also a number of 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 this provisional programme is subject to change** – the final lecture programme will be provided in the Course Handbook at the commencement of the course on 1 March 2023):

DATE	TOPIC
Wednesday 8 March 2023 17:30 to 18:30	Welcome, introduction to the course and orientation
Wednesday 15 March 2023 17:30 to 19:00	Introduction to business rescue
Wednesday 29 March 2023 17:30 to 19:00	Commencement of business rescue
Wednesday 12 April 2023 17:30 to 19:00	The general moratorium; the status of property interests during the business rescue process
Wednesday 26 April 2023 17:30 to 19:00	Post-commencement finance; the effect of business rescue on employees and contracts
Wednesday 10 May 2023 17:30 to 19:00	The effect of business rescue on shareholders and directors; participation in the business rescue process by creditors
Wednesday 24 May 2023 17:30 to 19:30	The business rescue practitioner

There will be a break of eight (8) weeks before lectures resume on **19 July 2023**.

DATE	TOPIC
Wednesday 19 July 2023 17:30 to 19:00	The business rescue plan
Wednesday 2 August 2023 17:30 to 19:30	Understanding financial forecasts in the context of business rescue
Wednesday 16 August 2023 17:30 to 19:00	The psychology of business rescue
Wednesday 30 August 2023 17:30 to 19:00	Discharge of debts and claims; areas where insolvency law and business rescue overlap
Wednesday 13 September 2023 17:30 to 19:00	Section 155 compromise with creditors

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) 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, or applied retrospectively to applications that have already been approved.

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 log in 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 fund transfer). There is a dropdown menu on the payment page where the payment method can be selected. Applicants who elect to pay by card are advised that payment will only be taken after an applicant's application has been approved. The 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. 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 Business Rescue" – 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. 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) 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 "SARIPA Programme in Business Rescue 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 Business Rescue**.

In addition:

- a full list of persons who have passed the course will be listed on the INSOL International website (under the SARIPA Courses 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 third or fourth 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 Business Rescue. 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 Business Rescue 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 Business Rescue is set out in broad terms below and is subject to change prior to the commencement of the programme.

Please note that the curriculum will be presented with the aid of a case study. Self-assessment questions will be set using the case study as a basis. In this way candidates will be taken on a journey through the business rescue process from start to finish.

1. Introduction to business rescue

- 1.1 Bird's eye view of the business rescue procedure as a whole (also in the context of insolvency)
- 1.2 Important definitions
- 1.3 Creditor-focused v debtor-focused approach - "corporate rescue culture"
- 1.4 The two objectives of business rescue
- 1.5 Key role players in the business rescue context
- 1.6 Practical examples of when business rescue is most appropriate

2. Commencement of business rescue

- 2.1 Voluntary commencement of business rescue by the board of directors
- 2.2 Restrictions on voluntary commencement
- 2.3 Requirements for voluntary commencement
- 2.4 Compulsory commencement of business rescue by an affected person
- 2.5 Requirements for compulsory commencement
- 2.6 Duration and termination of business rescue proceedings
- 2.7 "Reasonable prospect" of rescuing a company

3. The general moratorium

- 3.1 What is the moratorium?
- 3.2 What is enforcement action?
- 3.3 What are legal proceedings?
- 3.4 Rationale behind the moratorium and practical effect
- 3.5 Relevant case law

4. The status of property interests in the business rescue process

- 4.1 Disposal of property by the business rescue practitioner
- 4.2 Status and protection of security interests and property interests that exist prior to business rescue
- 4.3 Relevant case law

5. Post-commencement finance (PCF)

- 5.1 Post-commencement finance and its role in the business rescue process
- 5.2 Ranking of claims in the business rescue process as well as during a subsequent liquidation
- 5.3 Relevant case law

6. Effect of business rescue on employees and contracts

- 6.1 Status of employees when business rescue proceedings commence
- 6.2 Rights of employees during business rescue
- 6.3 Employees' statutory preference in relation to pre-business rescue claims
- 6.4 Suspension of contracts by the practitioner
- 6.5 Cancellation of contracts by the practitioner
- 6.6 Relevant case law

7. The effect of business rescue on shareholders and directors

- 7.1 The rights of shareholders and their participation in the business rescue proceedings
- 7.2 The rights and duties of directors in the business rescue context
- 7.3 The removal and replacement of directors by the business rescue practitioner
- 7.4 Relevant case law

8. The business rescue practitioner

- 8.1 Who is the business rescue practitioner?
- 8.2 How to qualify as a business rescue practitioner
- 8.3 Remuneration of business rescue practitioners
- 8.4 Removal and replacement of business rescue practitioners
- 8.5 Grounds for the removal of practitioners
- 8.6 Section 130 v section 139 - when do each of these sections apply?
- 8.7 Who appoints a substitute practitioner?
- 8.8 General powers and duties of business rescue practitioners
- 8.9 Investigation into the affairs of a company by the practitioner
- 8.10 Directors of the company and their duty to co-operate with and assist practitioner
- 8.11 Ethics and the business rescue practitioner
- 8.12 Relevant case law

9. Participation by creditors

- 9.1 The rights of and the participation by creditors in the business rescue process
- 9.2 First meeting of creditors
- 9.3 Joinder of creditors to proceedings - when is it necessary?
- 9.4 Relevant case law

10. The business rescue plan

- 10.1 What is a business rescue plan?
- 10.2 Content of the business rescue plan
- 10.3 Meeting to vote on the plan
- 10.4 Requirements for the adoption of the business rescue plan

- 10.5 Consideration of the business rescue plan by creditors
- 10.6 Consequences of a failure to adopt the business rescue plan - inappropriate vote and binding offer
- 10.7 Binding effect of an approved business rescue plan
- 10.8 Implementation of the plan and the reasonable prospect of rescuing the company
- 10.9 Relevant case law

11. Understanding financial forecasts in a business rescue context

- 11.1 Requirements of section 151
- 11.2 Basic understanding of the different financial statements (balance sheet, income statement and a cash flow statement)
- 11.3 Purpose of the different financial statements
- 11.4 Considerations to bear in mind when drafting the forecast financials for inclusion in the section 150 plan
- 11.5 Common pitfalls and practical challenges in preparing the necessary financial forecasts
- 11.6 Evaluation of the forecast financials by key financial stakeholders

12. The psychology of business rescue

- 12.1 Effective communication and engagement with stakeholders
- 12.2 Role played by the board and management (existing or new) in a rescue (including their statutory and practical role in assisting and reporting to the practitioner)

13. Discharge of debts and claims

- 13.1 The cram-down principle
- 13.2 "Fresh start" for financially distressed companies
- 13.3 Position of sureties in the business rescue context
- 13.4 Relevant case law

14. Areas where insolvency law and business rescue overlap**15. Section 155 compromise with creditors**



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