

Advanced Short Course in **BUSINESS RESCUE PRACTICE 2024**

This course is presented online only

WHY CHOOSE LEAD?

With over 30 years of experience, the legal education division of the LSSA understands the needs of a modern-day law practice.

LEAD offers a wide range of top-quality courses, seminars and certificate programmes designed to give legal practitioners the knowledge and skills to manage their practices successfully.

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Lifelong learning towards a just society

This online course is a joint initiative between the Law Society of South Africa (LSSA) and the University of South Africa (Unisa). Student registration and course administration are channeled through Unisa.

Purpose of the Business Rescue course

- To equip students with knowledge on the implementation of business rescue proceedings.
- To explain and apply practically the provisions of the Companies Act 71 of 2008 and other relevant laws regulating or applicable to business rescue proceedings, including the appointment and functions of a business rescue practitioner.

Course queries

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Registration closing date and duration

Closing of registration: **29 February 2024**

Background of Business Rescue

Although judicial management had been part of South African company law for almost a century, it was never widely accepted or used in spite of attempts to improve it by amendments to the relevant legislation.

The Companies Act 71 of 2008 introduced a newly created corporate rescue procedure in the form of business rescue proceedings. The purpose of the proceedings is to provide for the efficient rescue and recovery of financially distressed companies while ensuring the rights and interests of the relevant stakeholders are balanced.

Having a successful and effective corporate rescue regime is of great importance to the economic growth and stability of this country. Steps have been taken to provide the framework for a more successful rescue procedure for viable businesses.

However, it will require experienced and properly qualified business rescue practitioners

as well as good faith and trust from all stakeholders to make this work in practice. This course will give you the necessary skills to act as a business rescue practitioner and fulfil your duties in accordance with the letter and spirit of the law. You will also be able to advise and protect the interests of your clients who may find themselves involved in business rescue proceedings as directors, creditors, shareholders or employees of a company in financial distress.

Appointment of Business Rescue practitioners

The Companies and Intellectual Property Commission (CIPC) is responsible to license business rescue practitioners.

As from 1 April 2015, practitioners receive an open-ended license to act as a business rescue practitioner. This license is valid for a period of three years but may be suspended or withdrawn by the CIPC if a practitioner fails to comply with any of the provisions or duties contained in Chapter 6 of the Companies Act.

It is, therefore, now more important than ever for all stakeholders – and for practitioners in particular – to know and understand all the provisions contained in Chapter 6 and how they have been interpreted and applied by the courts.

The issuing of licenses for business rescue practitioners is not automatic or guaranteed. Nonetheless, the CIPC regards the completion of a relevant training course as an important factor when considering an application for licensing. Other factors include the practitioner's experience in business management and sound professional standing. Having worked as a team member with a registered business rescue practitioner can also count in an applicant's favour.

The CIPC has now also introduced annual CPD requirements and, even licensed business rescue practitioners will benefit from completing this course since it will certainly contribute substantially to their compulsory 20 hours of CPD per year. Failure to comply with the required hours of CPD may result in the CIPC refusing to renew a business rescue practitioner's license.

After completing the online course, students will be able to do the following

1. Explain the concept and role of business rescue and the applicable principles of law.
2. Understand the statutory duties and obligations of business rescue practitioners.

3. Provide advice to legal practitioners, accountants and other professionals appointed as business rescue practitioners.

Who may register for the course?

Professional people who are interested in understanding the legal principles of business rescue. This includes lawyers, legal advisors, auditors, financial advisors, bank decisionmakers, investors, businesspersons, liquidators, managers and trade union representatives.

Syllabus

There will be one module, divided into two parts:

Part A: Business Rescue proceedings Provisions of the Companies Act, 2008 regarding commencement of business rescue proceedings by a board resolution or order of court:

- Requirements.
- Procedure.

Legal consequences of commencement of Business Rescue proceedings:

- General moratorium.
- Protection of property interests.
- Post-commencement finance.
- Employment contracts and rights of employees.
- Other uncompleted contracts.
- Effects on creditors, directors and shareholders.

Provisions of the Companies Act, 2008 regarding the appointment and functions of a business rescue practitioner

- Procedure for appointment.
- Qualifications for appointment.
- Removal and replacement.
- Powers, duties and personal liability.
- Remuneration.

The Business Rescue plan

- Prescribed contents.
- Publication of the plan.
- Consequences of approval.
- Consequences of rejection.
- Termination of business rescue proceedings.

Part B: Compromise between a company and its creditors

- Compromises in terms of s 155 of the Companies Act 71 of 2008.

Other course details

Total credits: 12 Credits
South African National Qualifications Framework (NQF): Level 8

Admission requirements

An LLB or bachelor's degree incorporating a study of company law. Alternatively, an

equivalent South African National Qualifications Framework (NQF) level 7 qualification. Applicants must have a working knowledge of the Companies Act 71 of 2008.

Method of study

There are no formal classes. As the majority of the course will be studied online, it is required that students have access to the Internet and e-mail.

Students work at their own pace and all course material will only be made available electronically.

1. LEAD will forward your registration details to Unisa in order to be registered as a Unisa student.
2. Tutorial letters, assignment/s as well as the examination (portfolio) will be available online via Unisa's e-learning platform (myUnisa). This will enable students to access the electronic distance education facilities in order to download study material and submit assignments. Please note that the material will not be available in hard copy format.
3. Students will be expected to purchase a prescribed textbook at their own cost. Details of this textbook and other academic matters will be included in the first tutorial letter.
4. Students will have to submit a compulsory assignment online that will contribute to their final mark and write an open-book, non-venue-based examination.
5. The examination paper will be provided electronically to students who must then submit their answers to the examination 80 hours later, also electronically. The examination will take place on a specified date provided in Tutorial Letter 101.
6. An online workshop will be arranged by LEAD. Students with an outstanding fee will not be allowed to attend a workshop.
7. Formative assessment and examination admission will comply with Unisa's formative assessment rules and policies.
8. Unisa will be responsible for issuing certificates to successful students.
9. The language medium is English.

Lecturers

Mr Basil Mashabane – Qualifications: LLB (Pret) LLM (Unisa) MSc in Finance and Financial Law (University of London) LLD candidate (Unisa). Courses presented: Unisa: Advanced Certificate in Corporate and Securities Law; Advanced Short Course in Business Rescue; Practice; Techniques in Trial and Litigation. Fields of specialisation: Takeover Law; Corporate Governance; Company Law; Legal Practice.

Ms Mahlodi P Mothapo – Qualifications: LLB (UL) LLM (Unisa) cert in Corporate Law (Unisa and LEAD) LLD candidate (Unisa). Courses presented: Unisa: Advanced Certificate in Corporate and Securities Law; Advanced Short Course in Business Rescue and Civil Procedure. Fields of specialisation: Corporate governance, Company Law and Court Procedures.

Fee Structure (VAT inclusive)

* South African practising legal practitioners - R 9 300.

** All other professions including non-legal practitioners - R 11 900.

Payment must be made to Law Society of South Africa. It can be made in full or through a 'payment plan' (see above).

The first payment is made upfront by direct deposit (EFT). No registration will be confirmed if the proof of payment of at least the first payment has not been received.

If payment is not received within seven days of sending the registration form, then the registration form will unfortunately be discarded. Students who start the course are liable for the full course fee irrespective of whether they complete the course or not.

Student	Total Fees (Full Fee)	Payment Plan 2024	
		Amount payable on registration (first payment)	Balance payable before 31 March 2024
Practising legal practitioners / Candidate legal practitioners*	R 9 300	R 6 800	R 2 500
Other**	R 11 900	R 8 900	R 3 000

How to apply?

STEP 1: Please complete the application form by clicking on the link supplied below and attach the following:

- a clear copy of your identity document/passport;
- a copy of your highest degree obtained; and
- proof of payment and the payment plan details.

CLICK HERE TO APPLY

STEP 2: Payment should be made by electronic funds transfer (EFT) only. Remember to upload the proof of payment as well as the other supporting documents (PDF) in Step 1 (Online registration form).

LSSA banking details:

Account name: Law Society of South Africa

Bank: FNB Pretoria

Branch code: 251445

Account no: 6200 9641 079

Reference: BR, Surname and initials

STEP 3: You will receive a system-generated e-mail that we have received your registration form. Course confirmation and more detail on the way forward will be e-mailed to you after the closing date.

Closing date for registration

Registration closes: **29 February 2024**

Certificate

On successful completion of the course and payment of the full tuition fee, a certificate will be issued by Unisa.

Enquiries

For more information and registration for this offering, please consult the LEAD website or contact Bettie Lubbe at LEAD.

E-mail: bettie@LSSALEAD.org.za

We communicate only via e-mail.

Website: www.LSSALEAD.org.za

Cancellation

Refer to the terms and conditions on the registration form for Unisa's cancellation policies and procedures.

Please note

LEAD/Unisa reserves the right to cancel a learning activity should the number of students not justify the costs involved. Registered students will be given reasonable notice of cancellation.

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