Insolvency Law

1. Introduction to insolvency					
1.1 Schematic representation of the overall Insolvency Law					
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources	
1.1.1 Overview of the law of insolvency				Overview of the law of insolvency	

2. Sequestrations

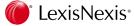
2.1 Compulsory sequestrations					
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources	
2.1.1 What is compulsory sequestration?				Advantages and disadvantages of compulsory sequestration	
2.1.2 When can an individual be sequestrated		Notice of inability to pay debts		Example of a nulla bona return of service	
2.1.3 Provisional sequestration, final sequestration and the discretion of the court				Example of a draft order	

2.2 Voluntary surrender and friendly sequestrations

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
2.2.1 When does voluntary surrender apply		Statement of Affairs		
2.2.2 Procedure regarding voluntary surrender		Notice of surrender of a debtor's estate Statement of Affairs	Voluntary surrender checklist	Process for lodging Statement of Affairs
2.2.3 Application for surrender of the debtor's estate and the		Notice of surrender of a debtor's estate Statement of Affairs	Voluntary surrender checklist	
court's discretion 2.2.4 Friendly sequestrations				

2. Sequestrations 2.3 The effect of sequestrations Form 19 – Form of 2.3.1 Effect of security under rule sequestration on an 45(5) insolvent Form 37 – Security under rule 38 2.3.2 Effect on the property of an insolvent debtor 2.3.3 Effect of sequestration on contracts and legal proceedings not , finalised 2.3.4 Effect of a Statement of Affairs sequestration on the solvent spouse 2.4 Section 9(1) application Notice of motion 2.4.1 Drafting the Windeed website template for sequestration Company's Intellectual sequestration application Property Commission application (CIPC) office (web) Sequestration application 2.5 The trustees Certificate of Requisition form 2.5.1 Appointment, appointment of remuneration and trustees removal of trustees Persons disqualified from being a trustee Vacation and removal from office of a trustee 2.5.2 Powers of a

trustee

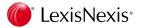


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2. Sequestrations 2.6 The creditors 2.6.1 Meeting of Table of meeting of creditors creditors 2.6.2 Voting and resolutions 2.6.3 Proof of creditors' Flow diagram of proof of claims procedure claims Singer NO v Master of 2.6.4 Ranking of Table of ranking of creditor's claims the Supreme Court, claims Transvaal Provincial Division and Another 2.7 Impeachable dispositions 2.7.1 Proceedings to Notice of motion to set set aside impeachable aside vote. dispositions Founding affidavit to set aside vote 2.8 After the sequestration Other Resources 2.8.1 Procedure and special rules for realization 2.8.2 Realization of solvent spouse's assests 2.8.3 Estate accounts Written objection Diagram of time frames and distribution for submitting estate documents 2.8.4 Alternatives to Notice of motion Debt Review SA (web) sequestration template for application of administration order 2.9 Rehabilitation 2.9.1 Rehabilitation of the insolvent debtor 2.9.2 Rehabilitation Notice of motion and Example of notice Documents to application to court founding affidavit accompany application for application for and documentary for application for for rehabilitation rehabilitation rehabilitation requirements

3. Liquidations	5			
3.1 Applicable leg	islation			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.1.1 Applicable law in relation to the winding-up of a company	Legh v Nungu Trading 353 (Pty) Ltd			
3.2 Voluntary win	ding-up			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.2.1 Voluntary winding- up of a company by members		Special resolution CM26 Bond of security Statement of Affairs CM100		CIPC website (web) CIPC (web)
3.2.2 Voluntary winding- up of a company by		Special resolution		CIPC website (web)
creditors		Statement of Affairs CM100		CIPC (web)
3.3 Winding-up b	y court			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.3.1 Application to court				
3.3.2 Procedural requirements to wind-up a company		Template of affidavit to wind-up a company		
3.3.3 Winding-up a solvent company				Table illustrating who can institute a voluntary liquidation order
3.3.4 Winding-up an insolvent company		Section 345 letter of demand		
3.4 Effect of wind	ling-up order			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.4.1 Effect of a winding-up order on the company, its assets and directors	Van Rensburg N.O. and Another v Cardio- Fitness Properties (Pty) Ltd and Others (46194/13) [2014] ZAGPJHC 40 (4 March 2014)			
3.4.2 Effect of liquidation on contracts of employment				



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3. Liquidations	5			
3.4 Effect of winc	ding-up order			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.4.3 Effect of liquidation on civil action against the company and its directors				Summary of the effect a liquidation order has on legal proceedings
3.5 Process after	winding-up order i	s obtained		
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.5.1 Provisional vs final order of liquidation		Provisional order of liquidation		
3.5.2 Notice of winding- up				Example of Provisonal order
3.5.3 Lodgment of statement of affairs with the Master		Statements of Affairs		Annexure CM100 (web) CIPC website
3.6 Provisional ar	nd final liquidators			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.6.1 Appointment of provisional and final liquidators		Requisition form	Process of appointing liquidators	Master's Circulars
3.6.2 Powers of provisional and final liquidators	Van Rensburg N.O. and Another v Cardio- Fitness Properties (Pty) Ltd and Others (46194/13) [2014] ZAGPJHC 40 (4 March 2014)	Application to Master to extend provisional liquidator's powers	Requirements for different modes of sale	Certificate of appointment
3.6.3 How to disqualify or remove a liquidator		Founding affidavit for removal of liquidator		
3.7 Proof of claim	าร			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.7.1 Proof of claims and ranking of claims		Claim affidavit		
3.7.2 Ranking of claims	Redpath Mining South Africa (Pty) Ltd v Marsden NO and Others (18486/2013) [2013] ZAGPJHC 148 (14 June 2013)			

3. Liquidations	;			
3.7 Proof of claim	IS			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.7.3 Meeting of creditors and members		Statement of Affairs Motivation to Master to subpoena witnesses Form 2 - Meeting of creditors in sequestrated estates Report by the liquidator Witness summons		Companies and Intellectual Property Commission (CIPC) (web) Advertisement in Gazette to convene first meeting of creditors
3.7.4 Voting and resolutions		Resolution Proxy form to vote at a meeting of creditors Template of proxy form to vote at a meeting of creditors		
3.8 Enquiries				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.8.1 Section 415 enquiry		Section 415 subpoena		
3.8.2 Section 417 enquiry		Template application to Master for commission of enquiry		
3.10 Liquidation a	nd distribution ac	count		
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.10.1 Liquidation and distribution accounts				Example of an application to the Master requesting an extension Example of a L & D Account
3.10.2 Submission of accounts				
3.10.3 Process regarding the lodging of accounts				



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3. Liquidations				
3.11 Reckless trad	ling			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.11.1 Reckless trading and liability of a director				
3.12 Voidable disp	positions			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
3.12.1 Voidable dispositions that may be set aside				List of dispositions which may be set aside
3.12.2 Proceedings to set aside voidable dispositions		Notice of motion to set aside a voidable disposition Founding affidavit to set aside a voidable disposition		List of dispositions which may be set aside

4. Business rescue				
4.1 What is busine	ess rescue			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
4.1.1 Overview of business rescue and how it fits into the law of insolvency				Schematic diagram of the entire business rescue process
4.2 How to enter i	nto business resc	ue		
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
4.2.1 When can a board place the company under business rescue		Form CoR123.1 Sworn statement Resolution to begin		Annexure 3 Table CR 3 – Methods and times for delivery of documents
		business rescue		Practice Note 3 of 2014 – Business rescue filing procedure
				Annexure 3 Table CR 3 – Methods and times for delivery of documents
				Diagram illustrating process to be followed when entering into business rescue by means of a resolution

4. Business rescue					
4.2 How to enter	4.2 How to enter into business rescue				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources	
4.2.2 Setting aside the voluntary resolution					
4.2.3 Compulsory application to court				Annexure 3 Table CR 3 – Methods and times for delivery of documents	
4.3 The Business	Rescue Practitito	ner			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources	
4.3.1 Appointment of a Business Rescue Practitioner				Business rescue plan	
4.3.2 Powers of the Practitioner		COR 125.2 - Notice of termination of business rescue proceedings		Annexure 3 Table CR 3 – Methods and times for delivery of documents	
				Diagram of the process when entering into business rescue by means of a resolution	
4.4 Effect of busi	ness rescue				
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources	
4.4.1 Legal moratorium					
4.4.2 Protection of property interest					
4.4.3 Effect on contracts, shareholders and directors					
4.4.4 Effect on sureties and guarantees		Survival of compromise clause			
4.5 Role players					
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources	
4.5.1 Rights of employees					
4.5.2 Rights of creditors					

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4. Business rescue

4.6 The business rescue plan

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
4.6.1 Formulation of the business rescue plan				Business rescue plan
4.6.2 Voting on a plan	Commissioner of South African Revenue Services v Beginsel NO and Others			How to calculate the voting interest - table
4.6.3 Purchasing a creditor's vote				
4.6.4 Setting aside a vote as inappropriate				
4.6.5 Failure to adopt business rescue plan				Steps to take when the business rescue plan is not approved
4.7 Post-comme	ncement financing	gand ranking of clai	ims	
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
4.7.1 Post- commencement financing and its provision				Example of creditor's consent Business rescue plan
4.7.2 Ranking of creditor's claims in business rescue				
4.8 Termination of	of business rescue			
Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
4.8.1 Termination of business rescue and the effect		Notice of motion to set aside vote on business rescue plan	Application to set aside resolution checklist	
		Form CoR 125.2 – Notice of termination of business rescue		

5. Criminal offences

5.1 Criminal offences applicable to insolvency law

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
5.1.1 List of criminal offences				

6. Cross border insolvency

6.1 Overview of cross border insolvency law

Guidance Note	Case Law	Forms & Precedents	Checklists	Other Resources
6.1.1 Cross border insolvency under the common law				
6.1.2 Cross border insolvency under the Act				

