



# PROGRAMME IN SOUTH AFRICAN INSOLVENCY LAW AND PRACTICE

**COURSE HANDBOOK 2022** 



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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. A Word of Welcome

Welcome to the Programme in South African Insolvency Law and Practice (the SARIPA course), 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 a comprehensive overview of South African insolvency law and practice and covers all aspects of insolvency law 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 will be 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, if not thousands, of people have completed the course since its inception.

The programme is presented in one-year cycles between 1 January 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 the Zoom platform, where specialised lectures will be presented on discrete aspects of South African insolvency law and practice.

This handbook contains essential information relating to the completion of the course, so all candidates are expected to read through this document and to familiarise themselves with its contents at the commencement of the programme. Candidates are advised to refer back to this document regularly in order to order to apprise themselves of the essential information it contains.

In the paragraphs below we would like to emphasise a few things regarding the manner in which the course is run:

 Please read the instructions contained in this Handbook as it will make the course experience a whole lot easier. Before e-mailing about a query you may have, please first read this handbook to see if you cannot find the answer to your question. We have also included a FAQ section at the end of the handbook to assist with any questions you might have.





- When you enrolled, your enrolment was confirmed by an auto-generated e-mail. This e-mail set out your student ID and also contained instructions on how to log in on the course web pages come 1 January 2022. When corresponding by e-mail, please quote your student ID if you do not, we have to go and search for it before addressing your query. If you did not receive the e-mail being referred to, please check your junk / spam folder as it may have ended up there.
- This course has been set up on INSOL International's systems to generate automated emails for various aspects of the course. For example, when you upload an assessment, an auto-generated e-mail is sent to you to let you know that your upload was successful. We also receive a copy of the e-mail, which tells us that you have uploaded an assessment and serves as a prompt to download the assessment for marking. Because the e-mails are autogenerated, these may end up in your spam or junk folders, especially if you are using a work e-mail address for the course. Please arrange with your IT manager / administrator to adjust the settings on your account to allow the INSOL e-mails to go into your inbox and not your spam or junk folder. Neither INSOL International not SARIPA can be held responsible if you miss important information due to these e-mails not reaching you.
- During 2021 INSOL International implemented a new education system designed to replace the previous one which, while functional, had its limitations. Since the system is new, it is anticipated that you may occasionally experience some glitches when using it. If you do experience any problems, please contact the Course Leader immediately by e-mail regarding the problem you are experiencing. The problem will then be fixed as soon as possible. However, before contacting us, please ensure you have properly followed the instructions contained in this Handbook.
- One specific problem that can be experienced on a course of this nature is the issue of plagiarism and copying (and sometimes copying and pasting) from the course notes directly into an assessment. You MUST write the answers to the questions in your own words! This handbook deals with plagiarism and its consequences, and the instructions to the assessments emphasise this fact. In addition, each time you upload an assessment to the system, you will be asked if the work is your own, that you completed the work independently and that you have correctly cited the work of others. Please note that in serious cases of plagiarism, disciplinary steps will be taken against those involved, so please be warned. Stated simply, all your answers when answering assessments must be in your own words and you have to demonstrate that you understand the content of the relevant assessment. We understand that not all candidates doing the course are lawyers, but since guidance is provided in regard to plagiarism in this handbook, there really is no excuse.
- Finally, it is imperative that you **consult the Course Administration page for this course on a regular basis**. The Course Administration page is where we communicate with you and update you on developments on the course. Please see paragraph 7 below for information on how to access the Course Administration page.





If you have any questions regarding the content of the course or the administration thereof, please do not hesitate to contact us at <a href="mailto:saripacourse@insol.org">saripacourse@insol.org</a> or e-mail the Course Leader directly at <a href="mailto:david.burdette@insol.org">david.burdette@insol.org</a>.

# Dr David Burdette Course Leader (on behalf of the Course Committee)

#### 2. Course Committee

The Course Committee consists of the following individuals:

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

#### 3. Course Aims and Objectives

The programme focuses on providing a sound theoretical understanding of the basic principles of South African insolvency law and practice. 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.

#### 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 per cent**.

#### 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 (based on the aggregate mark achieved for both papers):

- 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" will be determined by the Course Committee. Please note that a fee of £100 will be charged for re-sit assessments.

Candidates who submit the final assessments (examinations) but who fail, will be allowed to resit the assessment free of charge. Only one re-sit assessment / examination per paper 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 2023 (exact dates to be determined).

#### Course duration

The course is presented in one-year cycles between 1 January and 31 December each year.

#### Course content (curriculum)

The course content / curriculum can be found in **Appendix A** to the Course Brochure. The course content is also clear from the prescribed Guidance Text (notes) for this course.





# **CPD** points

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

- Insolvency Practitioners 12 CPD points
- Business Rescue Professional 4 CPD points

#### 5. Contact Sessions on Zoom

Since this is a blended-learning programme, there are a certain number of lectures / contact sessions that will be presented via the Zoom platform. These sessions will be recorded and made available to candidates on the course for the duration of the programme (how these recorded sessions will be made available to you, is explained below).

While the programme below is accurate at the time of publication, **please note that it is subject to change without prior notice**.

The lecture programme for 2022 is as follows:

DATE	TOPIC
Tuesday 18 January 2022 17:30 to 18:30	Welcome, introduction to the course and orientation  Presenters: Dr Eric Levenstein (Chairperson of SARIPA and Werksmans Attorneys, Johannesburg); Ms Rene Bekker (COO of SARIPA); Dr David Burdette (INSOL International)
Tuesday 1 February 2022 17:30 to 19:00	Introductory concepts and an overview of the South African insolvency law system  Presenter: Mr Julian Jones (Webber Wentzel, Johannesburg)
Tuesday 15 February 2022 17:30 to 19:00	Sequestration and liquidation procedures; application of insolvency law to winding-up  Presenter: Mr Ntlhane Makena (ENSAfrica, Johannesburg)





Tuesday 1 March 2022 17:30 to 19:00	Assets of the insolvent estate; assets of the solvent spouse; consequences of sequestration and liquidation; execution of judgments and attachments  Presenter: Ms Kylene Weyers (Cliffe Dekker Hofmeyr, Johannesburg)		
Tuesday 15 March 2022 17:30 to 19:00	Unexecuted contracts  Presenter: Professor André Boraine (University of Pretoria, Pretoria)		
Tuesday 29 March 2022 17:30 to 19:00	Impeachable transactions  Presenter: Professor André Boraine (University of Pretoria, Pretoria)		
Tuesday 12 April 2022 17:30 to 19:00	Liquidation of companies  Presenter: Emeritus Professor Anneli Loubser (UNISA, Pretoria)		
Tuesday 26 April 2022 17:30 to 19:00	Composition; rehabilitation; partnerships; cross-border insolvencies  Presenter: Mr Zaheer Cassim (INSOL Fellow and Cassim Law, Pretoria)		
Tuesday 10 May 2022 17:30 to 19:30	Business rescue and s 155 compromises in terms of the Companies Act 2008  Presenters: Dr Eric Levenstein (Chairperson of SARIPA and Werksmans Attorneys, Johannesburg; Ms Nastascha Harduth (INSOL Fellow and Werksmans Attorneys, Johannesburg)		
Tuesday 24 May 2022 17:30 to 19:00	Provisional trustees and liquidators; appointment and powers and duties of trustees and liquidators  Presenter: Professor Juanitta Calitz (University of Johannesburg, Johannesburg)		





Tuesday 7 June 2022	Meetings and the proof of claims			
17:30 to 19:00	<u>Presenter</u> : Professor Juanitta Calitz (University of Johannesburg, Johannesburg)			
	Jonannesburg)			

There will be a break of six weeks before lectures resume on **Tuesday 19 July 2022**.

DATE	TOPIC		
Tuesday 19 July 2022 17:30 to 19:00	Interrogations (examinations)  Presenter: Ms René Bekker (COO of SARIPA)		
Tuesday 2 August 2022 17:30 to 19:30	Secured creditors; encumbered asset accounts; free residue account  Presenter: Dr Reghard Brits (Brits Dreyer Inc, Cape Town and Research Fellow, University of Stellenbosch)		
Tuesday 16 August 2022 17:30 to 19:00	Distribution and contribution accounts; drafting of liquidation and distribution accounts  Presenter: Dr Reghard Brits (Brits Dreyer Inc, Cape Town and Research Fellow, University of Stellenbosch)		
Tuesday 30 August 2022 17:30 to 19:30	Drafting of liquidation and distribution accounts - practical exercise  Presenter: Mr Selwyn Trakman (Highveld Trust & Management CC, Johannesburg)		
Tuesday 13 September 2022 17:30 to 19:30	Drafting of liquidation and distribution accounts - practical exercise (continued)  Presenter: Mr Selwyn Trakman (Highveld Trust & Management CC, Johannesburg)		





#### 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.

Please note that the answers to the self-assessment questions will be made available to candidates on the course in a separate document by the end of January 2022.

#### Formative assessments (practice examinations)

In order to assist candidates with their preparations for the submission of the formal examinations, one opportunity will be given to candidates to submit a formative (practice) assessment / examination for each of the two papers that will be written for the final examination. The practice examinations must be submitted as follows:

# Paper 1 (Theory)

This practice examination will be made available at 13:00 SAST on 30 September 2022 and must be submitted by 13:00 SAST on 1 October 2022. 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 1 October 2022 and no late submissions will be accepted (the submission portal will close automatically at the appointed time).

# Paper 2 (Practical)

This practice examination will be made available at 13:00 SAST on 4 October 2022 and must be submitted by 13:00 SAST on 5 October 2022. 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 5 October 2022 and no late submissions will be accepted (the submission portal will close automatically at the appointed time).

Submission of the practice examinations are **not compulsory**, but all candidates are urged to submit these assessments in order to identify any shortcomings prior to the submission of the final examinations. Full feedback will be provided to students who submit the practice examinations and the model answers to these 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 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% 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 25 November 2022 and must be submitted by 13:00 SAST on 26 November 2022. 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 26 November 2022 and no late submissions will be accepted (the submission portal will close automatically at the appointed time).

#### Paper 2 (Practical)

This summative assessment (examination) will be made available at 13:00 SAST on 29 November 2022 and must be submitted by 13:00 SAST on 30 November 2022. 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 30 November 2022 and no late submissions will be accepted (the submission portal will close automatically at the appointed time).

#### Marking of assessments

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

<u>Important note</u>: 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.

#### 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*.



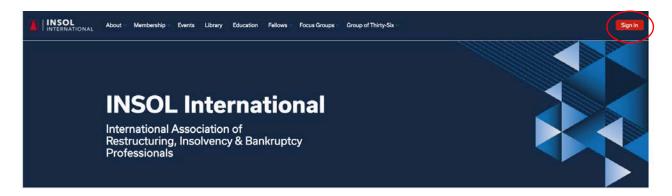


The script that has already been marked will not be provided to the re-marker. The mark awarded by the re-marker will be final and no further re-marks will be undertaken.

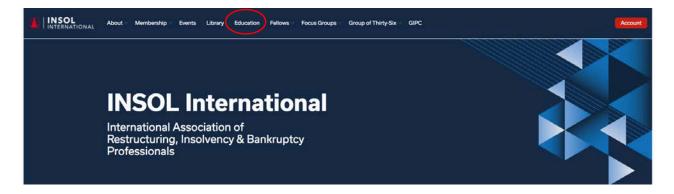
# 7. How to Access and Use the Student Portal on INSOL's Education System

# (a) Accessing your student portal

Once you have been notified by e-mail that your application has been successful and you have paid the full course fee (or you have been advised that you may pay the course fee in instalments), on or after 1 January 2022 log in to the INSOL International website (www.insol.org) - using the same login details you used to register for the course - by clicking on the red "Sign In" button in the top right-hand corner as indicated in the screenshot below (please keep these login details safe and handy so that you do not experience any problems accessing the course).



If you have logged in successfully, the red "Sign In" button will change to "Account". Once you are logged in, click on the "Education" tab on the main menu at the top of the page as illustrated in the screenshot below.

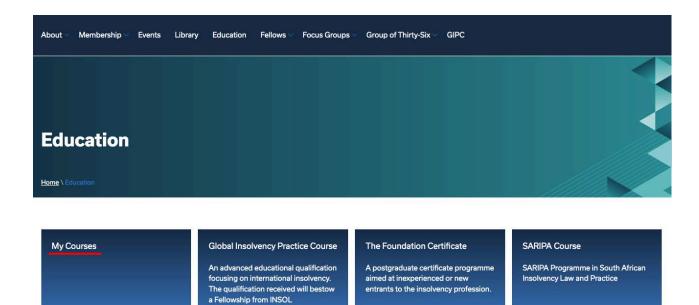


When the Education tab opens to the Education page, click on the "My Courses" tile - see the screenshot on the next page:

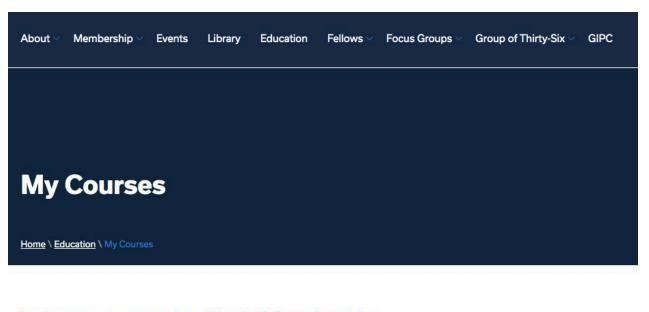




International.



When the "My Courses" tab opens, click on the red "My Courses" button as per the screenshot below:



In order to access your courses please click on the My Courses button below

My Courses

Once you have clicked on the red "My Courses" button as illustrated in the screenshot above, the "My Courses" portal will open, showing all the courses you are registered for. It is likely that the only tile you will see on your screen will be the "Programme in South African Insolvency Law and Practice 2022" tile - see the screenshot below:







Once you have clicked on the "Programme in South African Insolvency Law and Practice 2022" tile, your student portal will open. The first thing you will see is the Course Handbook for 2022 and below that the main module for the course and the various sessions for which there will be live Zoom sessions (more about these sessions later). The Course Handbook appears as per the screenshot below (the listed "modules" have been omitted from the screenshot and will appear below the Course Handbook):

# Programme in South African Insolvency Law and Practice 2022



Course Handbook

Please download the Course Handbook immediately and work through it in its entirety so that you understand what is required of you on this course. The Course Handbook also contains the dates of the contact sessions as well as the names of the persons who will be presenting the live sessions on Zoom.

# (b) Accessing the prescribed notes (or Guidance Text) and using the other tabs in your student portal

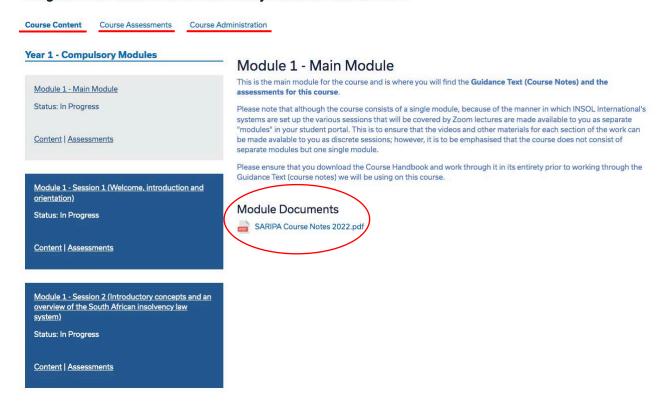
Once you have accessed your student portal, you will be in a position to access the prescribed notes for this course (the prescribed notes are also referred to as the Guidance Text and these terms are used interchangeably). Clicking on any one of the "modules" listed below the Course Handbook will take you to a new page where the Handbook is no longer visible, but where your "modules" are listed. The first of these "modules" is "**Module 1 - Main Module**" and this is where





you will find the course notes and your assessments (the assessments are dealt with below in this Handbook). This will display as per the screenshot below:

# Programme in South African Insolvency Law and Practice 2022



In the screenshot above, you will see the words "Module Documents" circled in red and, below that, a PDF document named "SARIPA Course Notes 2022". Clicking on this link to the PDF document will open the notes in a separate window. Please save these notes to your PC's hard drive or to an alternative drive where you can access the notes at any time (although you will be able to download the notes from the student portal for the duration of the course).

Please take cognisance of the fact that the notes are only provided in PDF-format. While the notes have security settings applied in that you will be unable to copy and paste from the document, the settings will allow you to print the document in high resolution should you wish to do so. Please note that neither INSOL International nor SARIPA will provide hard copies of the notes to registered candidates.

#### Other tabs

Also in the screenshot above, you will see that there are three tabs at the top, named "Course Content", "Course Assessments" and "Course Administration" - all underlined in red for the purpose of drawing your attention to them. These will each now be explained in turn:





#### Course Content tab

The "Course Content" tab is the default position where you will be taken to when landing on this page. As already stated elsewhere, there is only one module for this course. You will find the course notes as well as the course assessments under the "Module 1 - Main Module" tile. The other "modules" on the course have been created in order to support the live sessions that will be presented during the course of the year - these are more "sessions" than "modules", so please do not become confused. As already stated, there is only one module on the course. Under each of the "sessions" you will find the date and time when the live sessions will be presented. While you will receive an individual invite to each of the sessions with a link to the Zoom meeting, the link to these meetings will also be added to each of the "modules" or "sessions" once they have been set up. In addition to the date and time of the various sessions, you will find the name and affiliation of the person(s) presenting the live sessions. This information will be updated as and when needed (please note that the programme for the presentation of lectures is subject to change without prior notice).

#### Course Assessments tab

The "Course Assessments" tab is where you will find the assessments for this course. However, since there is only one module, the only place where you will find the assessments for this course will be under the "Course Assessments" tab for "Module 1 - Main Module". There are no assessments for the various sessions (1 to 16), so there is no need to click on the "Course Assessments" tab under each of the 16 sessions.

The assessments and instructions for uploading assessments are dealt with separately below.

#### Course Administration tab

Clicking on the "Course Administration" tab will open a new window. The Course Administration page is a page set up in order to keep you apprised of developments on the course, for example reminders or information relating to a change of lecturer for a specific session. In order to remain up to date with what the latest developments on the course are, you are required to regularly access this page. Please note that this is the only manner in which we can effectively communicate with everyone on the course. If you do not access this page on a regular basis, you are likely to miss out on important information relating to the course.

#### (c) Accessing information relating to the presentation of the live sessions

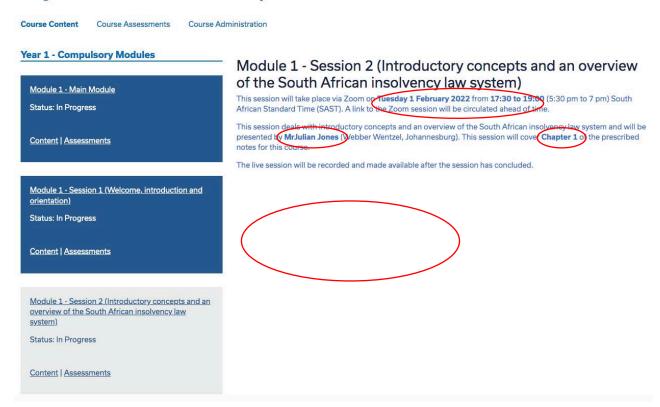
Having explained that the course consists of only one module - "Module 1 - Main Module" - you will notice that there are another 16 "modules" or "sessions" listed in your student portal. As explained, these "modules" have been created in order to support the live sessions that will be presented during the course of the year. They are not modules on the course as the course only consists of one module.





Below is an example of one of the sessions, where you can see that the only information reflected there is a description of the session, the time and date on which the session will be presented and the name and affiliation of the presenter(s). All the live sessions will be recorded and the videos will be uploaded to the individual "modules" or "sessions" after the presentation has concluded. This means that you will have access to the recorded lectures for the duration of the course. Since there are no recorded sessions at this time, the screenshot below does not show where the recording will appear, but the space where it will be uploaded to has been indicated.

# **Programme in South African Insolvency Law and Practice 2022**



In the screenshot above, "Module 1 - Session 2" has been selected. This "module" or session is in support of the lecture on introductory concepts and an overview of the South African insolvency law system. Circled is the date and time of the lecture as well as name of the person who will present the lecture. In order to assist with your preparation, the relevant chapters of the notes that will be covered are also mentioned. The oval in the white space is to indicate where the video will appear once uploaded (which will obviously be after the presentation of the live lecture).

#### (d) Accessing and uploading your assessment documents

#### Accessing your assessment documents

As mentioned elsewhere in this Handbook, you will be given the opportunity of submitting a formative / practice assessment (two papers, one theory and one practical) prior to submitting



Content | Assessments



Programme in South African Insolvency Law and Practice 2022

your formal / summative assessment (that is, the examination) on this course (which also consists of one theory paper and one practical paper).

Since candidates on the course will only have 24 hours in which to complete the assessments (for both the formative / practice assessments and the formal examination), these have obviously not been uploaded yet and will only be uploaded as previously indicated under paragraph 6 of this Handbook (that is, at the time your practice assessment / formal assessment commences). However, in order to demonstrate what this will look like, I have "mocked-up" these pages for the purposes of the Handbook.

The screenshot below illustrates where you will find the assessments. Click on "Module 1 - Main Module" and then either on the Course Assessments tab at the top of the page or on the Assessments tab within the Module tile itself, as indicated below:

#### **Course Content** Course Assessments Course Administration **Year 1 - Compulsory Modules** Module 1 - Main Module This is the main module for the course and is where you will find the Guidance Text (Course Notes) and the Module 1 - Main Module assessments for this course. Status: In Progress Please note that although the course consists of a single module, because of the manner in which INSOL International's systems are set up the various sessions that will be covered by Zoom lectures are made available to you as separate "modules" in your student portal. This is to ensure that the videos and other materials for each section of the work can Content | Assessments be made available to you as discrete sessions; however, it is to be emphasised that the course does not consist of separate modules but one single module. Please ensure that you download the Course Handbook and work through it in its entirety prior to working through the Guidance Text (course notes) we will be using on this course. Module 1 - Session 1 (Welcome, introduction and Module Documents Status: In Progress SARIPA Course Notes 2022.pdf

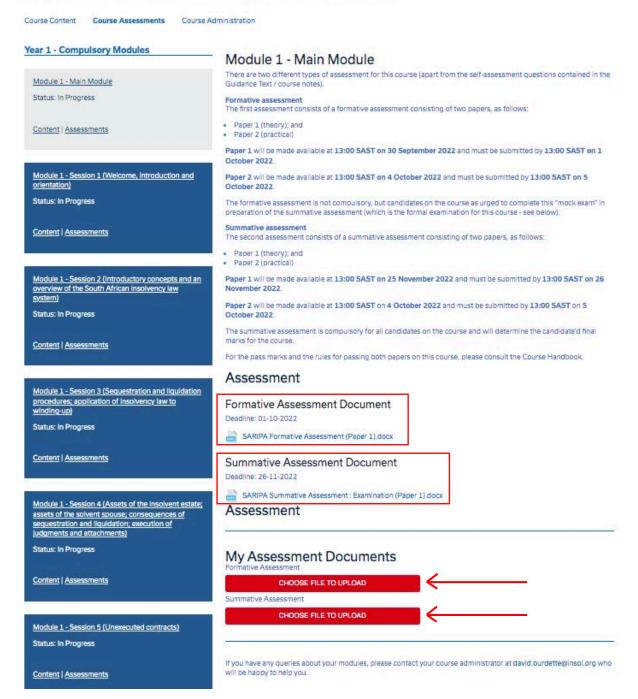
Once you have clicked on one of the assessment tabs shown in the above screenshot, the following page will open as per the screenshot on the next page (please note that for illustrative purposes I have only included Paper 1 for each of the formative and summative assessments). As you can see from the screenshot, the assessment papers will be provided to you in MS Word and you will be required to type your answer directly into the assessment before uploading the answers (also in MS Word-format) – more about uploading below.

In addition to the assessment documents, the deadline for the relevant assessment is also mentioned and the details of the assessments are provided.





#### Programme in South African Insolvency Law and Practice 2022



#### Uploading your assessment documents

In the screenshot above you will see two red arrows pointing towards two red rectangles named "CHOOSE FILE TO UPLOAD". These red buttons are to be used for the purposes of uploading your assessment(s) to the system where the course administrator will be able to access them. Please ensure that you upload the correct assessment when uploading. Clicking on the red "CHOOSE FILE TO UPLOAD" button will allow you to select a file from whatever local drive you have saved your assessment on. Please be sure to read the instructions included in the assessment itself before uploading any files. Once you have uploaded your files you will be





unable to change the upload (you will need to contact the course administrator should you make an error when uploading the file and this will need to be done **before the assessment deadline**).

Please note that once you have uploaded your assessment document you will receive an autogenerated e-mail informing you that your assessment has been received. The e-mail you receive will be similar to the one below:



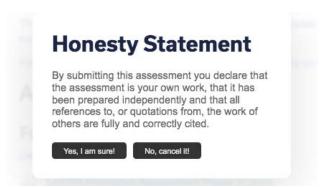
If you do not receive such an e-mail within five (5) minutes of having submitted your assessment, please let the course administrator know immediately by sending an e-mail to <a href="mailto:saripacourse@insol.org">saripacourse@insol.org</a>. It is imperative that all candidates on the course follow this instruction as the non-submission of assessments cannot be rectified after the fact. (Please check your spam / junk folder prior to contacting the course administrator as the e-mail may have ended up there.)

Since all scripts are anonymised for the purposes of marking, you are required to name the file you upload as follows: [student ID].[assessment name]. So, for example, for the first paper of the formative assessment you must name the file you upload as follows: 202122-336.formativeassessmentpaper1, with the red number representing your student ID and the blue letters describing the assessment. It is imperative that all candidates follow these instructions.

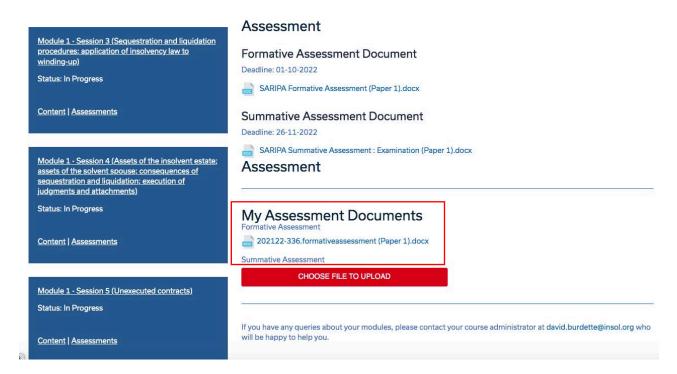
Please note that at the time an assessment is uploaded, candidates will have to accept an honesty statement (see screenshot below) to the effect that the submitted assessment is their own work, that it has been prepared independently and that all references to, or quotations from, the work of others have been fully and correctly cited. Please see further below in this handbook where plagiarism and dishonesty in the submission of assessments are dealt with in detail. Please note that INSOL International and SARIPA have a zero tolerance approach to dishonesty of any nature on this course and candidates who make themselves guilty of dishonesty will be severely dealt with. Other aspects regarding the submission of assessments are dealt with in paragraph 8 of the Course Handbook below.







Once you have uploaded your assessment documents, these will show in your student portal under "My Assessment Documents" as per the screenshot below.



#### Receiving your marked assessment back

Once you have uploaded your assessment papers to your student portal, the course administrator will be informed by e-mail and (the same e-mail that candidates receive when uploading an assessment) and will then download the assessments for the markers. Markers are given **four (4) weeks** within which to complete the marking and candidates on the course should not enquire about their results until such time as the four weeks have elapsed.

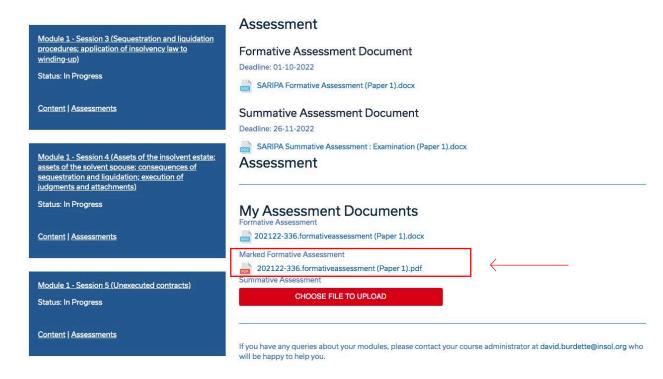
Once the marks are returned, the marked scripts will be returned to the relevant candidates. Candidates will be informed of their mark, as well as the fact that their marked scripts have been returned to them, by auto-generated e-mail. A screenshot of what this e-mail looks like is provided below:







The purpose of the e-mail is merely to inform each candidate that their script has been returned - candidates can then download the marked assessment from their student portal. The screenshot below shows where the marked script can be found and downloaded in the student portal:



It is to be noted that marked scripts will be returned to candidates in PDF-format. Clicking on the PDF file will download the document in a new page where candidates can see the feedback provided to them on their script(s).

As stated elsewhere in this Handbook, candidates who are dissatisfied with the mark awarded for a particular script may ask for a re-mark of the script - please note that a fee is payable for





each re-mark. See paragraph 6 of this Handbook where the assessments for this course are discussed in detail.

# 8. Other Aspects Regarding Assessments

#### Feedback on assessments

Each returned assessment will contain feedback on the assessment itself by the person who has marked the assessment. Feedback will be provided either by inserting comments into the MS Word document, or by way of different coloured text added to the assessment. The assessment will then be saved as a PDF file and returned to the candidate concerned. Please note that the extent of the feedback provided will depend on the person marking. Because this is a blended learning course, all markers have been asked to provide proper feedback so that candidates can see where they have gone wrong or where they have done particularly well.

## Re-marking of assessments

Please see paragraph 6 which deals with the re-marking of scripts. Where a re-mark has been requested, please also note that the mark awarded by the re-marker will be final and no further re-marks will be undertaken. Bear in mind that experts are already used on the course for the purpose of marking scripts, so the chances of the mark changing substantially after a re-mark is negligible and candidates could end up getting an even lower mark than the first mark that was awarded.

#### Plagiarism and other issues involving dishonesty in regard to assessments

On a blended learning / online course such as this, it is almost impossible to police whether or not candidates have submitted their own work. Aspects such as plagiarism, where existing software can be used to detect where the work of others has been used without acknowledgement, are more easily detected. Also, the markers are likely to pick up where candidates have copied and pasted text from the assessment into their answers. For this reason, the submission of an assessment is preceded by an honesty statement (dealt with above) where candidates will be asked to confirm that the work submitted is indeed their own and that the work of others has not been used without acknowledgement. Success on this course therefore relies largely on the honesty of registered candidates.

Generally speaking, plagiarism can be described as the practice of taking someone else's work and ideas and passing them off as your own, with or without their consent. Some examples of plagiarism are (source: <a href="www.plagiarism.org">www.plagiarism.org</a>): handing in someone else's work as your own; copying someone else's words or ideas without crediting the source (paraphrasing without crediting the source); failure to place a quotation in quotation marks; providing incorrect information regarding the source of a quote; changing words but copying the sentence





structure of a source without giving credit; and copying so many words and ideas from a source that it makes up the majority of your work, whether you credit your source or not.

In most cases, plagiarism can be avoided by citing the sources you have used. Simply citing the work you have consulted so that others may also consult that source, will usually be sufficient to prevent plagiarism.

Paraphrasing (see above) is a rather grey area, and it is sometimes difficult to know when one is verging on plagiarism. Plagiarism has serious consequences and you should therefore always be extremely careful in respecting the standard referencing and quoting techniques if these are to be used in assessments. A reasonable guideline is to always indicate in some way or another the source of an idea or argument, no matter to what extent you feel you have put it in your own words. Copying and pasting from the Guidance Text into your answer constitutes plagiarism and will be considered as such should it happen on this course - quite simply, candidates are required to provide answers *in their own words*.

Where it is suspected that candidates have not submitted their own work, or where there is evidence of candidates having plagiarised the work of others, steps may be taken to immediately terminate the course of such candidate (in which case no refund whatsoever will be made). Before a candidate is charged with dishonesty or plagiarism, the allegation and available evidence will first be considered by the Course Committee. If the Course Committee is of the opinion that there is a case to be answered, the candidate concerned will be provided with an opportunity to respond to any allegations made. The candidate's response will be considered by the Course Committee when determining the issue. After consideration of the charge and the candidate's response, the Course Committee's decision will be final, whatever the Course Committee's decision may be.

#### Aspects to bear in mind when answering assessments

The assessments are open book assessments and may consist of any or all of the following:

- Multiple-choice type questions;
- Direct questions;
- Essay-type questions;
- Application-type questions.

When answering essay-type questions candidates may make reference to sources or add additional text by way of footnotes, or may include sources in parentheses after each statement. Please bear in mind that candidates will only be tested on the content of the prescribed notes for this course, so the use of sources external to the prescribed notes is not required. Below are some pertinent issues you should bear in mind when answering essay-type questions (and possibly also when answering application-type questions).





#### Some notes on referencing

References to books should include: name of author, title of book, place of publication: publisher (year of publication), page(s) (for example, Fletcher, Ian F, *Insolvency in Private International Law*, Clarendon Press, Oxford (2005), p 123).

Example of a reference to a chapter of an edited book: Harmer, RW, UNCITRAL Projects; INSOL International, in: Fletcher, IF, Mistelis, L, and Cremona, M (eds), *Foundations and Perspectives of International Trade Law*, Sweet & Maxwell, London (2001), pp 480-495.

References to journals should read: name of author, title of article (in inverted commas), title of journal, issue number journal, page(s) (or you may use the order of citation suggested by the source itself). For example, Westbrook, Jay, "Multinational Enterprises in General Default: Chapter 15, the ALI Principles, and the EU Insolvency Regulation", 76 American Bankruptcy Law Journal 2002, p 1ff.

References to materials taken from the internet should include the full, working URL and the date the site was accessed. Campbell, Andrew, "Issues in Cross-Border Bank Insolvency: The European Community Directive on the Reorganization and Winding-Up of Credit Institutions", at <<www.imf.org.external/np/leg/sem/2002/cdmfl/eng/campb.pdf>>, accessed 6 July 2007.

# English spelling and grammar

Please use the grammar and spell checker on MS Word to ensure the content of your assessment is correct. Markers understand that people from a variety of jurisdictions may be doing the course, so there is no expectation that perfect English will be provided in assessments. However, when signing up for the course candidates did check the box stating that they are proficient in the English language, so answers must at least be intelligible.

#### If footnotes are used

References to the sources / literature / cases candidates use for the completion of an assessment, as well as any additional comments candidates wish to make that are not directly relevant to what is being discussed, may be cited in footnotes at the bottom of each page (not end notes, which appear at the end of a document). Where a reference in a previous footnote is exactly the same as the next footnote, candidates may use *ibid* instead of repeating the previous footnote. Where the source in a footnote is the same in a previous footnote, but a different section, article, page number etcetera is being cited, candidates may use *idem*, followed by the new section, article or page number being referred to.

#### Quotations

Please note that candidates should always acknowledge the work used in assessments. If a candidate in any way uses or elaborates on somebody else's work, it should make that clear through a reference in a footnote or in parentheses after the statement made. Literal quotations





must be placed in quotation marks. If a quote is longer than two lines, it may be indented from both sides. The use of quotations should be limited as far as possible.

#### 9. Disclaimer and Miscellaneous Matters

#### Access to course materials

Once an online application has been approved and full payment of the course fee has been made (or arrangements have been paid to pay the fee in instalments), registered candidates will be able to access, **from 1 January 2022**, the course and course materials via their student portal on the INSOL International website (instructions on how to access the student portal have been provided under paragraph 7 above).

#### 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 January 2022). 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.

#### 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 candidates 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 will 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.

# 10. Upon Completion of the Course

At the end of a year cycle (which runs from 1 January to 31 December each year), after all the marks have been processed, each registered candidate will receive a personalised e-mail setting out the candidate's results for the year.

Successful candidates' certificates will be posted to them by April in the year following the year in which they did the course. Successful candidates' names will also be listed on the INSOL International and SARIPA websites. Candidates are requested not to make enquiries about their certificates before the end of April following the year in which they have completed the course.

# 11. Frequently Asked Questions (FAQs)

Listed below are some frequently asked questions with the best course of action provided. These have been prepared based on the experience of presenting other courses under INSOL International's banner.

QUESTION	ANSWER		
Who do I contact if I experience	Please contact the Course Leader / Administrator at		
problems on the course?	saripacourse@insol.org. Alternatively you may contact		
	the Course Leader at <u>david.burdette@insol.org</u> .		
I am unable to submit an	No extensions are granted for the submission of		
assessment by the due date, what	assessments in any circumstances. If you are unable to		
must I do?	submit the summative assessment (examination),		
	please ensure that you submit an application to write a		
	special examination in February 2023. Applications for		
	special examinations may be sent to the Course Leader		
	/ Administrator at <u>saripacourse@insol.org</u> . <b>Please note</b>		
	that there are no special / re-sit examinations for the		
	formative assessments on this course.		





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acco	ordan	ce v	vith	the	instr	uctio	ns
but	did	not	re	ceive	an	e-m	ail
ackr	nowle	dgin	g re	ceipt			

First check your junk / spam folder to ensure the e-mail was not filed there. If no e-mail has been received, contact the Course Leader immediately by e-mail.

I submitted my assessment(s) but realised afterwards that I made a mistake (or I want to submit a revised assessment). How do I rectify this?

Once an assessment has been uploaded, the ability to upload a new document is no longer a possibility. For this reason you are requested to take the utmost care when uploading your assessments.

Where this does happen, contact the Course Leader and attach the assessment you want replaced. The Course Leader will replace the file, subject to the closing date for the assessment not yet having passed.

I tried to submit my assessment(s), but the "CHOOSE FILE TO UPLOAD" button was no longer visible and as a result I was unable to upload my assessment.

If the "CHOOSE FILE TO UPLOAD" button is no longer visible, the assessment submission portal has already closed. Please do not wait until the last minute before uploading your assessments. Ensure that you upload your assessments with plenty of time to spare as you never know when there could be a power or Internet outage. The "CHOOSE FILE TO UPLOAD" button is set to disappear at exactly the time indicated on the day the assessment is due (that is, 13:00 (1 pm) South African Standard Time (SAST).

# How will I be informed of developments on the course?

The Course Leader will post updates on the Course Administration page from time to time. Please consult the Course Administration page on a regular basis.

I have sent an e-mail to the Course Leader but I have not received a response for a number of days. What should I do? If there is a delay in responding to e-mails, it either hasn't reached the Course Leader or you did not quote your student ID in your e-mail. Please quote your student ID in all correspondence regarding the course. The Course Leader usually responds to e-mails on the same day, next day latest. If the Course Leader is away from the office or travelling, there will always be an out of office response informing you of this fact. If after two days no response has been received, try e-mailing again or calling the INSOL office.





When can I expect to receive my marked assessment(s) back?	INSOL International / SARIPA policy on the course is that marked assessments are returned to candidates no later than four (4) weeks after the closing date for the relevant assessment. No enquiries should be made in regard to the return of assessments until one month after the formal submission date.
I have received my marked assessment back but I am dissatisfied with my mark. What course of action is open to me?	In such a case you must e-mail the Course Leader setting out why you are dissatisfied. In the first instance the Course Leader will look at the assessment in order to ensure that no errors have occurred in arriving at the final mark. If in the Course Leader's opinion the mark is correct, you may request a re-mark of a script (see above in the Handbook where this is discussed). <b>There is a fee of £30 payable for a re-mark</b> .
Where do I find my student ID?	You will find your student ID in the e-mail informing you that your application for a place on the course was successful. Your student ID will be in the following format: 202122-XXX (with XXX representing the consecutive number allocated to you when you applied). Please note that your student ID does not ever change and will remain the same even for additional courses you may undertake through INSOL in future.

# 12. Concluding Remarks

This Course Handbook should be read in conjunction with the information on the SARIPA course web pages in your student portal. If you have any questions that are not dealt with in the pages of this handbook, or on the SARIPA course web pages, please contact the Course Leader at <a href="mailto:saripacourse@insol.org">saripacourse@insol.org</a>.





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