



## APPLICATION FOR THE ACCREDITATION OF PROFESSIONAL BODIES FOR BUSINESS RESCUE PRACTITIONERS

### 1. INTRODUCTION:

1.1 Section 138 of the Companies Act No. 71 of 2008 (as amended) (“**Act**”) provides for the qualifications of Business Rescue Practitioners (BRP).

1.2 Regulation 126(1) read in conjunction with Section 138(1);  
The Commission must, when considering an application for accreditation of a profession under section 138(1), have due regard to the qualifications and experience that are set as conditions for membership of any such professional body, and the ability of such professional body to discipline its members and the Commission may revoke any such accreditation if it has reasonable grounds to believe that the professional body is no longer able to properly monitor or discipline its members.

1.3 For the purpose of this application. Section 128(1) (d) of the Act defines “**business rescue practitioner**” as a person appointed, or two or more persons appointed jointly, in terms of Chapter 6 of the Act to oversee a company during business rescue proceedings and “practitioner” has a corresponding meaning.

1.4 Section 138(1) provides that a person may be appointed as the business rescue practitioner of a company only if the person –

- (a) is a member in good standing of a legal, accounting or business management profession accredited by the Commission;
- (b) has been licensed as such by the Commission in terms of subsection (2);
- (c) is not subject to an order of probation in terms of section 162 (7);
- (d) would not be disqualified from acting as a director of the company in terms of section 69 (8);
- (e) does not have any other relationship with the company such as would lead a reasonable and informed third party to conclude that the integrity, impartiality or objectivity of that person is compromised by that relationship; and
- (f) is not related to a person who has a relationship contemplated in paragraph (d).

1.5 In addition to the accreditation of the professional bodies, the Commission may issue Conditional Licenses to any qualified person to practice in terms of Chapter 6 of the Act and may suspend or withdraw any such licence in the prescribed manner.

### 2 PURPOSE OF ACCREDITATION OF PROFESSIONAL BODIES:

2.1 The Commission must consider accrediting a professional body with members having the required experience and qualifications in terms of Section 138.

2.2 The accredited professional body must have the ability to discipline and monitor its members.

2.3 Voluntary Associations registered with SAQA may be considered for accreditation.



### 3 REQUIREMENTS:

3.1 In applying for accreditation a Professional body (referred to as the “**applicant**”) is required to submit the following to the Commission:

- 3.1.1 Application letter on their letter head,
- 3.1.2 Detailed legal status of the applicant,
- 3.1.3 Latest annual report of the applicant
- 3.1.4 Where the application and its supporting documents are incomplete or defective, the Commission may direct the applicant to make the corresponding corrections or submit additional documentation.

3.2 The application must be submitted to [businessrescue@cipc.co.za](mailto:businessrescue@cipc.co.za)

### 4 THE ABILITY OF THE APPLICANT TO CONDUCT ITS ACTIVITIES EFFECTIVELY:

4.1 The applicant has to demonstrate how it will effectively monitor the activities of their members with regards to Business Rescue. Please provide the following information and documentation to the Commission:

- 4.1.1 The extent to which the applicant is able to conduct its activities effectively, including details of its location and facilities;
- 4.1.2 The applicant’s management structure and internal controls; and
- 4.1.3 The case management system of the applicant.
- 4.1.4 A copy of the applicant’s code of conduct to govern the persons whom it will appoint to perform the functions for which accreditation is sought.
- 4.1.5 Proof that the code of conduct has been accepted and subscribed to by the members.
- 4.1.6 Details regarding the manner in which adherence to these procedures will be investigated, monitored and enforced.
- 4.1.7 Details regarding how misconduct will be reported and addressed and procedures for receiving and addressing complaints, and the reporting to the Commission.

4.2 Every professional body accredited by the Commission whose members are entitled to oversee an entity during business rescue proceedings must demonstrate that;

- 4.2.1 It has proper mechanisms for ensuring that its members participate in continued professional development and achievement of professional competence;
- 4.2.2 It has mechanisms to ensure that its members are disciplined where appropriate;
- 4.2.3 It is, and is likely to continue to be, financially and operationally viable for the foreseen future;
- 4.2.4 It keeps and maintains a proper register of its members;
- 4.2.5 It has in place appropriate programmes and structures to ensure that it is actively endeavouring to achieve the objective of being representative of all sectors of the South African population; and
- 4.2.6 It meets any other requirements that may be determined by the Commission from time to time.



## **5 PROOF OF THE FOOTPRINT OF THE APPLICANT AS WELL AS ITS EMPLOYMENT EQUITY:**

5.1 The applicant must provide the Commission with the following information and documentation:

- 5.1.1 Information as to the racial, gender and disability composition of the professional body. -
- 5.1.2 The spread of Business Rescue Practitioners around the Country.
- 5.1.3 Annually provide the Commission of the spread of the Business Rescue Practitioners details with regard to names, race and gender of the practitioners as well as provinces they reside in and the provinces where they have overseen business rescue proceedings..

## **6 THE EFFECTIVE PERIOD, TERMS AND RENEWAL OF ACCREDITATION:**

- 6.1 The Commission will review annually the accreditation of the applicant.
- 6.2 The applicant may be accredited subject to certain conditions being met and maintained. The Commission will monitor compliance with the conditions and/or terms of accreditation on an ongoing basis.
- 6.3 In an effort to demonstrate the effectiveness of Business Rescue, the applicant is required to publish the proceedings that are opened, closed, entities rescued or under liquidation on their website and allow the Commission to publish a copy on its website as well.
- 6.4 Accreditation will not be automatic following the filing of the application. The Commission will have the right to decline an application to accredit if the applicant does not appear to meet the requirements.
- 6.5 Upon determination that the requirements have been satisfactorily complied with, the Commission shall issue a letter of accreditation.
- 6.6 The accredited body must provide the Commission annually with a report, highlighting the items in paragraph 4 above.

## **7 COMPLIANCE MONITORING:**

- 7.1 The Commission will monitor the effectiveness of the accredited professional body relative to the purposes and policies of the Act and may reasonably require the accredited professional body to provide information necessary for the purpose of monitoring.
- 7.2 When the Commission receives a complaint about the conduct of a practitioner, the professional body will be required to provide the Commission with necessary information when requested. The Commission will have the right, if required, to take steps it may deem necessary to address the complaint in addition to what the professional body may have taken.



## **8 REVOKING OF ACCREDITATION:**

- 8.1 The Commission may revoke the accreditation of an accredited professional body if it no longer satisfies the criteria and/or the requirements of the Act or the criteria and/or the requirements set by the Commission.
- 8.2 It is an offence to knowingly provide false information to the Commission in terms of Section 215(2)(e). If it is found that the accredited body has provided false information to the Commission, it could constitute grounds for a revocation of the accreditation and the Commission taking possible criminal action against the accredited body.
- 8.3 The Commission will give notice in writing to the accredited professional body of any failure to comply and where appropriate the accredited professional body will be permitted to make representations as to why its accreditation should not be revoked, unless exceptional circumstances warrant the immediate revoking of accreditation.
- 8.4 A decision to revoke accreditation will be communicated in writing to the accredited professional body and the Commission will issue a public statement to that effect.

## **9 EFFECTS OF ACCREDITATION:**

- 9.1 All accredited professional bodies shall be included in the list of accredited professions on the Commissioner's website.