

June 2022

## CIRCULAR 05

THIS IS A CIRCULAR TO ALL THE AFFECTED PERSONS OF **WINDMEUL INGENIEURSWERKE PTY LTD** RELATING TO THE OUTCOME OF THE 2ND MEETING OF CREDITORS, HELD IN TERMS OF THE COMPANIES ACT, 71 OF 2008 AS AMENDED (THE ACT).

### **OUTCOME OF THE MEETING HELD IN TERMS OF SECTION 143 OF THE ACT**

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The business rescue practitioner wishes to advise all the affected parties of the outcome of the 2<sup>nd</sup> meeting of creditors held on the 10<sup>th</sup> of June 2022. The purpose of this meeting was to vote on the fee structure of the business rescue practitioner's remuneration. This is done in terms of Section 143 of the Companies Act.

### **BUSINESS RESCUE PRACTITIONER FEES**

#### **1. Security for BR P Fees**

1.1. The Companies Act Section 135(3) dictates that a business rescue practitioner's fees are to be paid first. The practitioner is however willing to give leniency for the payment terms, by waiting before being paid, allowing the business to continue to function.

1.1.1. The first request that the BR P wishes to make in this regard is that any fees that are not taken as and when they become due, be seen as post-commencement finance and that security for the payment thereof be held over the assets of the business, work in progress, debtors' books and all other assets **not secured at the time of this meeting.**

1.1.2. This does not take preference over any security that is already in place at the time of this meeting, such as the various securities already held.

1.1.3. Alternatively, the practitioner's fees will be paid as and when they become payable.

1.1.4. **No votes were taken in this meeting as it was requested that the vote on the fee structure be held over to a later date. The practitioner did however insist on outlining the fee structure so that all creditors are aware of the fee structure proposal.**

2. The Business Rescue Practitioner stated that the hourly rates payable to a Business Rescue Practitioner is governed in regulation 128 and section 143 of the Companies Act, and that practitioners are only permitted to request additional remuneration in the form of contingency fees, on condition that the directors of the business agree to these contingencies and further only if the attendees at a meeting called for this purpose, vote in favour of the proposed contingencies.

2.1. The practitioner presented the following remuneration proposal to the creditors.

**3. For reference purposes the fee structure is set out below:**

3.1. An hourly rate of R1500/hour with a maximum of R 18 750 per day (inclusive of VAT) as prescribed in regulation 128 of the Companies Act when appointed to a medium-sized business rescue (PI Score of 128).

3.1.1. **No vote was required as this is in line with the provisions of the Act.**

**4. Contingency Fees:**

4.1. The practitioners will be entitled to 50 hours' worth of fees at the substantial implementation of the business rescue process,

4.2. The practitioners will be entitled to 5% commission on any moveable and/or immovable assets sold during the business rescue process (5% of the gross proceeds),

4.3. All of the above contingencies are excluding VAT, where applicable.

**5. Third Party Payments:**

5.1. The practitioner confirmed that regulation 128(3) and section 143(1) of the Companies Act provides for a company that is in business rescue to pay certain 3<sup>rd</sup> party expenses during business rescue process.

5.1.1. Although not required, the practitioner committed to provide details of these costs at each monthly meeting in the spirit of transparency.

5.2. These 3<sup>rd</sup> party expenses will include, but not be limited to:

5.2.1. Professional Indemnity Cover of the Business Rescue Practitioner

5.2.2. Fees for professional assistance such as accountants, lawyers, admin staff and others.

5.3. It is in this same premise that Mr Jaco Durandt was introduced to all the affected persons present at the meeting. Jaco will be in charge of all administration of the business rescue process and will be remunerated by means of a monthly retainer of R 3 500/month, which works out far less than should the practitioner do the administration at the hourly rate.

**No votes were taken in this meeting as it was requested that the vote on the fee structure be held over to a later date. The practitioner did however insist on outlining the fee structure so that all creditors are aware of the fee structure proposal.**

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