

# Corporate Debt, Turnaround & Restructuring

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### SOUTH AFRICA

Understanding the Gauteng High Court's  
dedicated insolvency court



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## Understanding the Gauteng High Court's dedicated insolvency court

The implementation of the Insolvency Motion Court (IMC) and Insolvency Trial Court (ITC) in the Gauteng High Court, effective from 14 April 2025, marks a significant procedural shift in the management of insolvency matters by the judiciary. In respect of the notice issued by the office of the Deputy Judge President in the Gauteng High Court, dated 10 March 2025, a court purely dedicated towards the adjudication of insolvency-related matters has been introduced.

### Operation of the insolvency court system

The purpose of this system is to remove insolvency related matters from the existing general unopposed, opposed, and urgent motion rolls, by transferring them to the IMC. Matters requiring oral evidence will be addressed in the ITC. For creditors, this development is largely beneficial, as the primary implication thereof is the faster resolution of insolvency-related matters.

Practitioners are encouraged to enrol insolvency-related matters from 14 April 2025. The first of these hearings is scheduled for the week of 12 May 2025, following a rolling four-week cycle from case enrolment to hearing (excluding recess periods). This structured timeline is designed to limit the use of urgent insolvency applications, with exceptions granted only in extraordinary circumstances. In an attempt to enhance efficiency and improve case load management, insolvency matters will no longer be entertained in the general urgent motion court (except during recess periods).

This means that applications for sequestration, liquidation or business rescue can now be heard within a structured four-week cycle, leading to quicker turnaround times and more predictable litigation timelines. These courts are expected to adopt rules and procedures similar to, but distinct from, those practiced in commercial courts.

### Insolvency Motion Court

The IMC will be operational from the second term of 2025, operating weekly during each term, except for the last week. The court will adjudicate opposed and unopposed insolvency motions, including urgent applications. This encompasses proceedings arising from sequestration, rehabilitation, liquidation and business rescue, including reviews of decisions by the Master and other officials. The court will also preside over the perfection of security and applications to extend the powers of provisional liquidators, and convene enquiries (exceptions and interlocutory applications) which are not covered by the special interlocutory court.

At the time of issuing court processes, all cases must be classified by the applicant's attorney as an insolvency case using the prescribed form. If the classification is incorrect, the case may be struck from the incorrect roll. Overriding Directive 1 of 2024 regarding unopposed applications, unopposed motions will be scheduled for the fourth week after the enrolment request is uploaded. Similarly, opposed matters will also be scheduled for the fourth week after enrolment, overriding the relevant provisions of Directive 1 of 2024.



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For opposed matters, a detailed joint practice note must be submitted, outlining the issues in dispute and the decision needed, along with the heads of argument from all parties. Notably, the system introduces mechanisms to deal with non-compliant parties. For example, if a company facing liquidation fails to co-operate in the enrolment or hearing of a matter, the creditor may proceed unilaterally, warning of punitive cost orders and potentially preventing the opposing party's legal representatives from charging fees. This discourages delay tactics and gives creditors greater leverage during such proceedings.

Due to the four-week cycle, only in exceptional cases will a matter be considered urgent enough to require an earlier hearing. For matters deemed urgent, they must meet the criteria for urgent enrolment as outlined in the Rules of Court and Practice Directive 1 of 2024. The presiding judge will notify the parties of the hearing date and time, at least 11 court days before the set-down date.

During recess periods, urgent matters must be referred to the senior judge in the general urgent motion court, who will decide whether the matter is heard during recess or deferred to the next IMC session. If there is a dispute requiring oral evidence or a trial, or if the case is too complex for the IMC, the allocated judge will work with the parties to ensure the matter is prepared for a special allocation, which may involve directions for further case management.

The implications of this insolvency court pilot system are more challenging for companies facing liquidation or business rescue. The new court structure minimises delays, as the strict four-week cycle is rigorously enforced and only truly urgent matters (satisfying rigorous criteria) will be entertained on an expedited basis. This limits the use of urgent applications to stall creditor actions.

### Conclusion

The creation of the IMC and ITC highlights the evolution of the judicial handling of insolvency proceedings in the Gauteng High Court. By introducing an organised system dedicated exclusively to insolvency matters, the judiciary aims to expedite the resolution of insolvency matters. While this development offers significant benefits to creditors, it simultaneously imposes stricter compliance obligations on companies facing liquidation or business rescue. The reduced scope for delay tactics and the limited availability of urgent relief will require distressed companies to adopt a more proactive and strategic approach when engaging in insolvency litigation.

**Nastascha Harduth and Kgantsho Ramaphala**



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**BBBEE STATUS: LEVEL ONE CONTRIBUTOR**

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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