

ASK EXPERIENCED PRACTITIONERS!

Association of Arbitrators
(Southern Africa) NPC

WORKSHOP



Questions and Answers Panel Session

BACKGROUND:

Do you have industry-specific questions but nobody to turn to for answers? Maybe you feel you should already know the answers and therefore feel hesitant to ask. Or maybe you do not know who to approach. No matter the reason, the Association is always here to provide access to the answers.

Join us for a morning of informal networking, snacks and drinks as our panel of experienced practitioners discusses relevant topics often arising in arbitration and related industries.

QUESTIONS:

- ✓ **Tjaart van der Walt:**
 - ✓ Can an arbitrator order absolution from the instance?
 - ✓ Does an arbitrator have the right to withhold an award pending payment of his/her fees?
 - ✓ Is hearsay evidence admissible in arbitrations?
 - ✓ Is it useful to incorporate the use of the High Court Rules as a procedural guideline in arbitrations? What are the pros and what are the cons of doing so?
 - ✓ When is it useful to exclude the provisions of section 20 of the Arbitration Act 42 of 1965?
- ✓ **Pierre Rossouw:**
 - ✓ Can an arbitrator correct a mistake that he/ she has made in an award?
 - ✓ Is it necessary to give the parties written notice of an arbitration hearing?
 - ✓ Is it necessary to record the proceedings?
 - ✓ What are the powers of the arbitrator if a party does not appear?
 - ✓ When is an arbitration award deemed to have been delivered?
- ✓ **Armando Aguiar:**
 - ✓ Can an arbitrator recuse himself at the request of a party, absent consent of the other party?
 - ✓ What are the requirements for an appointment of an arbitrator to be set aside and how does one go about this?
 - ✓ What types of matters are not subject to arbitration?
 - ✓ What does one do when the parties cannot agree on the appointment of an arbitrator?
 - ✓ Can an arbitrator issue a subpoena and what is the position if a subpoena is ignored?
- ✓ **Hanneke Spies:**
 - ✓ Does an agreement to arbitrate have to be in writing?
 - ✓ Does an agreement to make an arbitration award subject to an appeal have to be in writing?
 - ✓ Does an arbitration agreement have to be signed by the parties?
 - ✓ How do you enforce an arbitration cost award?
 - ✓ Is a term in an arbitration agreement that states only that an arbitrator shall be appointed enough to be able to enforce it?



ABOUT OUR EXPERIENCED PRACTITIONERS:

Adv Tjaart van der Walt, B Jur LLB FAArb (SA) MAFSA (SA) FCIArb (UK) MSoM (UK):

Tjaart is a senior member of the Maisels Group of Advocates in Sandton. He was recommended for SC status by the Silk Committee of the Johannesburg Bar, awaiting the imminent signing of his Letters Patent. He is a Fellow of the Association of Arbitrators (Southern Africa) NPC (AASA), a Fellow of the Chartered Institute of Arbitrators (UK) (the CIArb) and a listed international arbitrator for the AoA, the CIArb and AFSA. He is an International Mediator accredited by the Civil Mediation Council (UK), the School of Mediation (UK), the CIArb (UK) and the AASA to mediate construction, commercial and contractual disputes. Over a 10-year period, prior to his admission as Advocate in 1995, he was employed as Legal Advisor, Public Prosecutor and part-time Academic and practiced as an Attorney. His practice includes general commercial arbitration, mediation and litigation with a focus on the law of contract and delict. His industry specific exposure as Advocate, Arbitrator and Mediator over more than 20 years includes petroleum, coal and platinum mining, agriculture, food and beverage, telecommunications, construction, forestry, pension funds and banking.

Adv Pierre Rossouw SC, BA LLB FAArb (SA) MAFSA:

Pierre is a Senior Counsel and a member of the 3 Maisels Chambers Group of Advocates in Sandton. He has held various appointments as acting judge of the High Court. He has appeared in divisions of the High Court, Supreme Court of Appeal and the Constitutional Court of South Africa, and the High- and Supreme Courts of Namibia. Judgments in 30 of his litigious matters have been reported in the SA Law Reports, the Butterworths Constitutional Law Reports and the Commercial Law Reports. He was awarded the CIArb Advanced Certificate in International Arbitration. He practices in arbitration and commercial litigation, specialising in contract law, company law, insolvency law, construction law, banking law, insurance law, administrative law, property law and competition law. He is a Fellow of the AASA and serves on the General Commercial Panel of the AFSA.

Mr Armando Aguiar, BA Law LLB FAArb (SA):

Armando is a Director of ENSafrica's dispute resolution department and specialises in general commercial dispute resolution, and construction and engineering law including the drafting of contracts (FIDIC, NEC, JBCC and GCC), claims and dispute resolution. His experience includes advising clients on local and international contract-based commercial litigation, and on varied commercial litigation. He has acted for a number of major construction companies, national governments, parastatal entities and listed multinational companies. He is a Director and Fellow of the AASA, a fellow of AFSA, and a CEDR-accredited mediator. He adjudicates and arbitrates in construction disputes. He is recognised as a leading/recommended lawyer by various reputable rating agencies and their publications.

Ms Hanneke Spies, B.Comm LLB BA Law:

Hanneke is a Partner at Fasken (Johannesburg), a leading international business law and litigation firm of attorneys. She specialises in dispute resolution, commercial litigation and international arbitration. She has particular expertise in litigation relating to administrative law and resolution of mining disputes involving contracts as well as reviews of decisions by the Department of Mineral Resources. She represents local and international companies in disputes relating to breach of contract, directors' and auditors' liability, restraints of trade, tender awards and administrative actions. Hanneke also advises on tender disputes, ranging from domestic internal remedies to judicial reviews.

Date: Saturday, 3 March 2018 **Time:** 10:00 to 12:00

Venue: Association of Arbitrators (Southern Africa) NPC
3rd Floor, Block B, Sandown House, Norwich Close (off 5th Street), Sandown, Johannesburg

NOTE: Seats are limited.

Cost (incl. VAT): Members: R350.00 Non-members: R400.00

RSVP by: Thursday, 1 March 2018
Please send your completed **Registration Form** to **Raquel Townsend**.
Email: raquel@arbitrators.co.za