



CERTIFICATE COURSE IN ARBITRATION 2024

INFORMATION BOOKLET (Modules 1 and 2)

Revision 2



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1. INTRODUCTION TO THE COURSE

- 1.1. We welcome you to the Certificate Course in Arbitration. The Association of Arbitrators (Southern Africa) NPC¹ Correspondence Courses were inaugurated in 1985 and has been successful far beyond our expectations. Candidates who are successful in this course may wish to proceed to the Fellowship Admission Course which entitles successful candidates to election as Fellows of the Association.
- 1.2. The Association is acutely aware of the need to provide adequate training for Arbitrators, and others who may become involved in arbitration. Many individuals aspiring to be arbitrators, and who may be appointed as such, have only the sketchiest idea of the laws and rules that apply to the situation that they must deal with, of the rules of natural justice and of the procedures and techniques that need to be employed if an arbitration hearing is not to become a fiasco. Many who become involved in arbitrations have little idea of what to expect and how to deal with the situation.
- 1.3. Although arbitration is recognised and fairly well established as a means of resolving disputes, particularly in the construction industry, the subject of arbitration has received scant attention, if any, in the academic training of those who, in their chosen careers or professions, may well have occasion to become involved in arbitration at one time or another - either as one of the parties seeking arbitration as a means of resolving a dispute in which he/she is involved or even as arbitrator. Even South African Universities, which deal with other aspects of the law with commendable thoroughness, appear for the most part to gloss over the subject of arbitration in a very perfunctory manner. Not many advocates or attorneys appear to have more than a nodding acquaintance with the subject.
- 1.4. This course is a distance learning course in the sense that contact between students and tutors is primarily maintained by correspondence. However, workshops have been scheduled during the year. Students may submit questions, queries, or comments to the Course Manager, but they are expected to pursue their studies in their own time and manner. **Neither the Course and Member Manager or any staff member of the Association will under any circumstances provide any student with copies of textbooks, journal articles, judgments or any form of study material.**
- 1.5. While this or any similar course may give you a sound theoretical acquaintance with the subject of arbitration, there is no substitute for practical experience. You are therefore urged to seek any opportunity that might present itself to attend an arbitration hearing. For this

¹ Hereinafter referred to as the "Association".

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purpose, we encourage students to attend functions, lectures, workshops and other ADR related activities regularly presented by the Association. Such attendances provide opportunities for students to become acquainted with ADR practitioners and to become involved in the real world of ADR practice.

- 1.6. The tutors for the entire Correspondence Course programme including the Certificate Course, the **Fellowship Admission Course** and the **Specialisation in Construction Law Course** are all duly qualified and experienced Fellows of the Association. They are Emeritus Professor David Butler (Mercantile Law: University of Stellenbosch), Professor Sieg Eiselen (Private Law: UNISA), Adv Pierre Rossouw SC, Adv Tjaart van der Walt SC, Adv Donald Joubert, Adv Kevin Trisk SC, Dr Tanya Hendry, Adv Henk Louw, Adv Mias Mostert, Mr Tom McDonald, and Mr Nick Maritz. For purposes of the Certificate Course, Tom is responsible for Module 1 and Donald, Henk and Tanya are responsible for Module 2. For purposes of the **Fellowship Admission Course**, Sieg is responsible for Module 3, Tjaart, Pierre and Mias are responsible for Module 4A and David is responsible for Module 4B. Kevin and Nick are responsible for the **Specialisation in Construction Law Course** (Module 5).
- 1.7. The Association's secretariat consists of Rochelle Appleton (General Manager), Mandisa Mthembu (Course and Member Manager), Michelle Venter (Financial Manager), René Vermaak (ADR Admin Manager), and Ndisha Lidzhegu (Data and IT Manager).
- 1.8. Mandisa is responsible for course co-ordination and bears the primary responsibility for the administration of the courses and all that this entails. It hardly needs to be said that we are all committed to ensuring that you derive the maximum benefit and enjoyment from your studies.
- 1.9. We who have been involved in the preparation and presentation of this correspondence course wish you enjoyment and success in your studies.

2. APPLICATION AND LANGUAGE

- 2.1. The Association's correspondence courses are only available to members of the Association. As such, any person wanting to undertake the courses, who is not already a member, must first make application to be an Associate Member of the Association and must meet the relevant minimum criteria for membership set by the Board of Directors from time to time.²
- 2.2. The presentation of the Association's courses, all course material, notes, documentation, and

² Click [here](#) for more information regarding membership with the Association.

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correspondence will be in the English language.

2.3. Withdrawal from the Courses

- 2.3.1. Students who withdraw from the courses at any time or who do not write the exam will not be entitled to a refund. **Course fees are non-refundable.**
- 2.3.2. Students who withdraw from the course or fail to write the exam at the end of the year will be required to apply for the course the following year and will be required to pay the full course fee.

3. E-LEARNING

- 3.1. The Association's correspondence courses will be presented exclusively through its e-Learning Portal, subject to personal attendance, if possible, at the compulsory workshops referred to below. Any person wanting to undertake the course may make application online.
- 3.2. Click here to access the e-Learning portal.
- 3.3. Students are therefore required to have access to a stable un-interrupted Internet connection and possess the ability to type in order to be able to download the course material, submit the compulsory assignments, receive communications from the Association, and write the online exams. Students must be able to undertake the course independently without assistance.

4. PRESCRIBED AND RECOMMENDED TEXTBOOKS

The books that have been prescribed for this course are not necessarily the best, or only, books on the respective subjects. There may be others which may in some respects be better but which have not been prescribed because of other disadvantages. While the prescribed books must be studied for this course, students should not limit themselves to these books. Students should read the recommended books, compare them with the prescribed books and look upon the differences very critically. The views given in the prescribed books will not necessarily be right and in certain circumstances, other views are to be preferred. There will be other books, not on the lists of prescribed or recommended books, which should be consulted as well.

4.1. Prescribed Textbooks

Students are required to purchase these books (alternatively to arrange to have unrestricted access

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thereto) for purposes of completing this course.

Module 1: Introduction to the Theory of Law; Law of Contract

- 4.2. Hutchison D and Pretorius C (ed) *The Law of Contract in South Africa*, 3rd Edition (Oxford University Press Southern Africa, 2017);
- 4.3. Du Bois F (ed) *Wille's Principles of South African Law*, 9th Edition (Juta & Co Ltd, 2007). This is an invaluable resource book for all students and practitioners alike, which provides a comprehensive overview of South African law.

Module 2: Law and Practice of Arbitration

Butler D and Finsen E *Arbitration in South Africa: Law and Practice* (Juta & Co Ltd, 1993).

4.4. Recommended

It is recommended that these books are purchased for study purposes, but they are not essential.

Module 1: Introduction to the Theory of Law; Law of Contract

Christie RH and Bradfield GB *The Law of Contract in South Africa*, 7th Edition (LexisNexis, 2016). - This work goes far beyond the limited requirements of Module 1 but is also prescribed for Module 3 and is essential for any practising arbitrator. Notwithstanding that it is quite an expensive publication, students are encouraged to obtain the publication as it will be beneficial in this course as well as for future reference in arbitral practice.

Module 2: Law and Practice of Arbitration

Ramsden, PA McKenzie's *The Law of Building and Engineering Contracts and Arbitration*, 7th Edition (Juta & Co Ltd, 2014).

NOTE: Candidates should ensure that they are using the latest editions of the textbooks. Earlier editions may contain important material that is no longer up-to-date or correct and will not, of course, contain important new material.

4.5. Arbitration Act and Rules

A copy of the [Arbitration Act 42 of 1965](#) (the Domestic Arbitration Act) is provided with your notes, together with a copy of the Association's [2021 Edition Rules for the Conduct of Arbitrations](#). These are also available on the Association's website.

4.6. The George Quail Memorial Library of Arbitration

4.6.1. The Association's George Quail Memorial Library is administered by the Secretariat of the

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Association. It is housed in the offices of the Association at **Sandown House, 3rd Floor, Block B, 2 Norwich Close (off 5th Street), Sandown**, and may be used during business hours.

4.6.2. The library includes most of the available textbooks relating to arbitration and many on related subjects. Membership of the library is open to correspondence course students and enquiries may be made to the Secretariat.

4.6.3. Students are not permitted to borrow books but may read these at the library.

4.7. The Association's Website

The Association's website (www.arbitrators.co.za) contains copies of the various editions of the Rules for the Conduct of Arbitrations, the **Domestic** and **International** Arbitration Acts, **ADR related documents** and other information including **scheduled events**, workshops, and evening lectures. Attendance at these events is encouraged. They are a platform for furthering your knowledge and assist you in becoming acquainted with colleagues within the Association and other ADR practitioners.

5. PROSPECTUS OF THE COURSE

The course is divided into two modules:

5.1. Module 1: An Introduction to Law Comprising the Theory of Law and Law of Contract

Chapters of the **prescribed textbooks** which are to be studied and read are indicated in the course notes. You will find in the course notes and the tutors' comments on the relevant parts of these books which should be studied and read.

5.2. Module 2: The Law and Practice of Arbitration

5.2.1. Students are required to study the **prescribed textbooks** and the notes which are provided for this course.

5.2.2. *Arbitration in South Africa: Law and Practice* by Butler and Finsen is the prescribed textbook which meets the requirements at both the legal and practical levels for the course. It contains a greater degree of detail than is provided in the course notes. Butler & Finsen and the notes form the backbone of this section of the course. The course notes provide updated information considering the development of the law of arbitration after the publication of Butler & Finsen.

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6. COURSE NOTES

All course notes will be made available to the students to be downloaded from the [e-Learning Portal](#) on the day after course registration closing date.

7. ASSIGNMENTS

- 7.1. Students will be required to complete several written assignments in each module during the year. **Please note that submission of all assignments is compulsory.** These assignments are to be submitted no later than the dates indicated below, and **no extensions of time will be granted.**
- 7.2. Students are required to submit comprehensive assignments, written in narrative style, demonstrating that they have substantially addressed each question.

7.3. Due Dates for Assignments

Module 1: Introduction to the Theory of Law and Law of Contract

For students registered for this module, two assignments are required to be submitted by no later than the following dates:

ASSIGNMENT CODE	DUE DATE
M1/1	Thursday 16 May 2024
M1/2	Thursday 1 August 2024

Module 2: Law and Practice of Arbitration

For students registered for this module, three assignments are required to be submitted in writing by no later than the following dates:

ASSIGNMENT CODE	DUE DATE
M2/1	Thursday 11 April 2024
M2/2	Thursday 20 June 2024
M2/3	Thursday 5 September 2024

- 7.3.1. **Assignments are compulsory** and will be marked and returned to students. A written

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commentary for each assignment will be available for download from the [e-Learning Portal](#). These assignments form an important part of the course as they enable students to gauge their understanding of the subject by applying the principles which they have studied to specific problems. The assignments also provide feedback to the course tutors on the adequacy of the course notes and [prescribed books](#).

NOTE: Students are responsible for ensuring that the Association receives their assignments before or on the due date.

7.3.2. Closing dates for assignments must be strictly adhered to. **The submission of all assignments is a prerequisite for exam admission.** Refer to [paragraph 10.2 \[Examination Admission\]](#) for further information.

7.4. Instructions for Completing and Submitting Assignments

7.4.1. All assignments are to be submitted via the [e-Learning Portal](#), in PDF format.

7.4.2. Students will not be able to submit an assignment after midnight on the due date, but they may submit their assignment before the due date.

7.4.3. It would be greatly appreciated if assignments could be submitted typewritten and double spaced.

7.4.4. **It is important that only your student number appears on the assignment.** Students who submit assignments with their names written on them will not be accepted.

7.4.5. Please **DO NOT** retype the question, this is unnecessary. However, you must ensure that the question number to which the answer relates is clearly legible.

7.5. General Comments on Assignments

7.5.1. Assignments generally require a considerable amount of thought, and often some research, and should therefore not be left to the last day before due date.

7.5.2. It is very important that you should read the assignment carefully and make sure that you understand what is required. Read it several times to make sure that you do not misinterpret it. Look up any unfamiliar words in a subject specific dictionary (Google is very seldom a satisfactory substitute for a subject specific dictionary). Subject terms may be defined in your study material and [prescribed textbooks](#). It is imperative to consult these as well. Important information is conveyed in the way in which an assignment is worded as well as through the hints and guidelines provided along with the assignment.

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- 7.5.3. Identify exactly what the subject is and what aspects of this subject are covered by the assignment topic. To do this, you must find the keywords (i.e. the most important words) in the assignment topic. The keywords enable you to determine the focus of the assignment. Keywords can provide you with more information on the topic. The reason why you should identify keywords is that they guide you when you are reading about the topic and gathering information on the central theme.
- 7.5.4. The action words that are used in assignments are key indicators of the kind of answers that could be given. The list below contains examples of action words that are usually found in assignments. These words enable you to determine the focus of the assignment.
- 7.5.5. Based on the list below, use the action words in the assignment to determine what is expected of you.

Enumerate	Mention items or points one by one. No detail is required, and the result of an enumeration is a list of things or aspects.
Indicate	State briefly, in broad outline, without detail. An indication gives the reader the gist of the matter.
Analyse	Divide into sections or elements and discuss in full.
Define	State the precise meaning of a term as you use it in your assignment answer. The definition should ensure that the term has only one meaning and that it cannot be confused with other terms. This often implies that you will have to consider a number of definitions before arriving at a substantiated decision on the precise meaning you will attach to the term in the relevant assignment.
Distinguish	Provide definitions but also indicate similarities and differences.
Describe	Give an account of the characteristics or properties of a matter in such a way that your reader can recognise it and not confuse it with anything else. A description tells you “what it is like”.
Explain	Write about the topic in such a way that the reader gains a better understanding of the important underlying facts. An explanation tells the reader “Why a thing is the way it is”.
Compare	Set out how things differ from one another and in what ways they are similar. A good comparison also says, “why it is so”.
Discuss	This implies that there are various explanations of, or opinions about, what you must discuss. You must state what these are and show how and why they may correspond or differ. “Discuss” often involves weighing up arguments for and against something.
Evaluate	Assess or “determine the value of” something. This implies that you

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should have criteria against which you can measure something; the result should be the formulation of your own opinion of the matter. You may approve, disapprove, or suggest a modification of whatever you have to evaluate. Evaluation usually implies comparison and should always be substantiated, based on soundly formulated reasons.

Examine	Examine and critically discuss a topic in terms of definite criteria or guidelines. Offer comments. Give your own opinion on the matter.
Point out	Present a premise logically by means of thorough reasoning.
Summarise	Give the key aspects of a topic.
Illustrate	Give examples or draw a diagram to elucidate a particular topic or subject.
Interpret	Explain or give the meaning of something in terms of a more common concept. Your explanation should be as practical as possible.
Criticise	Point out the good and bad characteristics and give your opinion after taking all the facts into account.

7.5.6. In answering the questions it is important that full reasons be given for your answer and, wherever relevant, to quote applicable authority for your conclusions. To answer a question with yes or no will earn very few marks. Your tutors are interested to know how and why you arrive at your answer. In most cases, more marks will be allocated for the argument and motivation of an answer than for the answer itself. The key to it all is logical reasoning supported by applicable authority.

7.6. Citing Sources

7.6.1. When citing textbooks, cases, articles, and so forth as an authority, please note the following:

- Case law must be cited in full when used for the first time in the text (e.g. *Kanhym Bpk v Oudtshoorn Munisipaliteit* 1990 (3) SA 252 (C) at 254E-D); thereafter an abbreviated reference is sufficient (e.g. *Kanhym* above);
- Prescribed textbooks may be referred to in your answer by merely giving the author's name and the page number (e.g. *Snyman* 20);
- Articles are referred to by citing the author's name, the journal (or its accepted abbreviation like SALJ for South African Law Journal) and the page number (e.g. *Whiting* 1986 SALJ 38);

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- Do not refer to sources that you have not personally consulted;
- It is not necessary to provide full references in the examination;
- Work copied directly or paraphrased from a textbook or any other source without acknowledgement is also unacceptable and constitutes plagiarism which is an offence. Plagiarism is the act of taking the words, ideas, and thoughts of others and passing them off as your own. It is a form of theft which involves several dishonest academic activities. Note that, even if you work in a group with other students, each member of that group should submit his or her own assignment written in his or her own words. The safest policy is for the group to discuss only the question, leaving each member to work out his or her own answer.

7.6.2. Students are encouraged to refer to the Pretoria University Law Press (PULP) Publication Style Guidelines. Click [here](#) to download the Style Guidelines.

7.6.3. Answers which contain plagiarism will **NOT** be marked.

7.7. Internet References

Information obtained on the Internet is acknowledged by reference to the website, followed by the date when the website was visited. The date is important because the contents of the page on the website may subsequently change, or the reference or even the whole website may disappear or be moved elsewhere. It follows that, besides making a printout of the page at the time of visiting it, you should re-check the current status of all Internet references when preparing the final version of your work for submission. Example: <http://www.aol.com>, last visited on 21 January 2003. Be aware that the law differs from jurisdiction to jurisdiction. Do not, without good cause, use for example an Australian legal article or judgment sourced from the Internet to substantiate a legal argument relevant to South African law.

7.8. Assignment Mark Allocation

The marks allocated to each question will indicate the approximate length of answer expected. An answer much shorter than the indicated length will probably indicate that you have not considered the implications of the question adequately, while an answer that considerably exceeds the suggested length may indicate irrelevancies, repetition, and padding.

7.9. Assignment Commentaries

7.9.1. Tutors will provide a general commentary on each of the compulsory assignments, including

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important points that they were looking for in the answers, and common mistakes. The commentaries should not be regarded as model answers.

- 7.9.2. Students must be aware that, as there is often more than one way in which a question can be answered, they should be careful not to rote learn the commentary on the mistaken assumption that it is a model answer.

7.10. Answering Assignments

- 7.10.1. Assignments are, of course, to be answered on an open book basis, i.e., when answering the questions, you are expected to use the prescribed textbooks, course notes and other appropriate reference material. When making statements in your answers you should quote the relevant authority, e.g. Wille page 67, Gibson page 191, etc., and at the end of the answer list your references, e.g. *SA Mercantile and Company Law* by JTR Gibson; *The Law of Contract in SA* by RH Christie.
- 7.10.2. While every effort will be made to mark and return your answer papers to you as quickly as possible, it must be borne in mind that the process of assembling the answer papers, sending them to tutors for marking, marking them, and finally returning them will take considerable time, and you should not expect to receive your papers back in less than approximately six weeks.
- 7.10.3. Assignment answers are to be in English. Handwritten assignments must be legible, otherwise, they will not be marked.
- 7.10.4. Students must submit their assignments in pdf format through the e-Learning Portal.

7.11. Structure of Assignments and Examination Answers

- 7.11.1. Plan the structure of your answers so as to:
- Deal in proper sequence with all the relevant elements of the topic; and
 - Present your work in its most favourable and readable form.
- 7.11.2. Wherever possible, use numbered paragraphs. This is particularly so where it is necessary to itemise a set of principles, legal requirements or other characteristics, but the use of designated paragraphs will also improve the presentation of passages of general dissertation or debate. A phrase such as “the following aspects of the matter are significant” followed by a series of numbered paragraphs will improve the impact of what is written.
- 7.11.3. Avoid padding. The tutor or examiner will have assumed that you have the basic general

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knowledge of the topic and he/she is interested only in what you have to say on the specific aspect referred to. A mere repetition or paraphrase of the topic as it appears in the course notes would, therefore, give no indication of your own understanding of the topic.

- 7.11.4. Apart from a brief introduction to show where the particular aspect fits into the general topic, padding is an indication either of untidy thinking or of an attempt, which will not succeed, to disguise an inadequate understanding of the matter.
- 7.11.5. Attention to these hints will not only help you to gain higher credits for your work but will, in some measure, ensure against omissions or repetitions and help you in checking your work before handing it in.

8. SEMINARS AND WORKSHOPS

Booking forms giving details regarding the venues and times for the following functions will be sent to students, the cost of which is included in the course fee.

8.1. Informal Get-Togethers

- 8.1.1. Students who have had little or no exposure to legal studies often struggle to get to grips with the legal principles and formulation of arguments. Students often fail to reach their full potential, not because they don't study the material but rather because they are unsure of how to approach the questions in exams and assignments.
- 8.1.2. To assist students who have not been exposed to the study of law and to assist students in general, workshops will be held *inter alia* to introduce the basic principles of law and outline approaches to be followed in addressing legal questions. Details of the workshops are set out below.

8.2. Compulsory Workshops

NOTE: For compulsory online workshops, students are required to keep their cameras on for the entire duration of the workshop.

- 8.2.1. Online Workshops, dealing with both Modules 1 and 2 will be held as follows:

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Module 1: Introduction to the Theory of Law and Law of Contract

WORKSHOP	DATE
15:30-17:00	Thursday 18 April 2024
15:30-17:00	Wednesday 24 July 2024

Module 2: Law and Practice of Arbitration

WORKSHOP	DATE
08:00-10:00	Friday 19 April 2024
08:00-09:00	Thursday 5 September 2024

- 8.2.2. At these workshops, tutors will deal with those aspects of the course which appear to give difficulty and discuss students' problems. These workshops have been particularly successful in the past and the students who attended found them very helpful.
- 8.2.3. It may become necessary to reschedule workshops for reasons beyond the control of the Association as has occurred in the past with the COVID-19 pandemic. Students will be advised in advance of any postponements or rescheduling of workshops.
- 8.2.4. Note the relevant dates in your diary now.

9. ASSESSMENT

9.1. Assignment Year Mark

NOTE: It is a compulsory requirement that a student submits all assignments in order to be admitted to write the exam.

The marks obtained from the assignments (the Assignment Year Mark) will count equally towards 20% of the Final Year Mark.

9.2. Exam

9.2.1. The exam will count 80% towards the students' Final Year Mark.

9.2.2. According to the Association's policy, a student will be required to obtain a minimum of 50%

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in the examination **before** the Assignment Year Mark will be taken into consideration.

9.2.3. To pass the examination for Module 1 a student must obtain a minimum of 50% for Part A and — separately — 50% for Part B. If a student obtains less than 50% for either Part A or Part B they will fail the exam.

9.2.4. Students undertaking Module 2 must obtain a minimum of 50% for the examination.

9.2.5. Students who fail the exam will have to undertake the relevant Module again.

NOTE: **There will be no supplementary oral or written exams.**

9.3. Previous Examination Papers

No previous examination papers are available for Modules 1 or 2.

9.4. Final Year Mark

9.4.1. Students who pass the exam and obtain a Final Year Mark of more than 50% will receive an appropriately inscribed certificate which will be presented to students at the Association's Annual General Meeting.

9.4.2. Students who obtain a Final Year Mark of less than 50%, notwithstanding having passed the exam, will have to repeat the relevant Module.

9.4.3. A discretionary prize may be awarded by the Association to the most successful student each year.

9.5. Admission to Fellowship Course

9.5.1. Students must ensure that they are thoroughly familiar with these requirements in order to be admitted to the [Fellowship Admission Course](#) (Modules 3 and 4). These requirements are contained in the Fellowship Admission Course Information Booklet and include, amongst others, the successful completion of the Certificate Course. Students doing Module 1 or Module 2 only are required to comply with the following requirements:

- Students doing Module 1 only must, in addition to compliance with all other requirements, obtain a Final Year Mark for Module 1 of at least 60% in order to be admitted to Module 3;
- Similarly, students doing Module 2 only must, in addition to compliance with all other requirements, obtain a Final Year Mark for Module 2 of at least 60% in order to be

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admitted to Module 4.

- 9.5.2. Students who obtain a Final Year Mark of less than 60% for a Module, will have to repeat that Module and obtain a Final Year Mark for that Module of at least 60%, and comply with all other requirements, in order to be admitted to the next Module.

10. EXAMINATIONS

- 10.1. Exams are closed book exams and will be conducted online. Students are expected to have the necessary technological resources, including a stable uninterrupted internet connection and possess the ability to type the answers to the exam questions themselves. Students will not be permitted to have any assistance whatsoever in writing the exams.
- 10.2. Several you will be contemplating the examinations with some trepidation. This is perhaps understandable, as many of you will not have written an examination for many years and you would like to know what to expect and how to prepare yourself for it.

10.3. Examination Admission

A student is required to submit all assignments in order to be admitted to write the exam. To gain exam admission, students are required to obtain a minimum of 40% for each assignment.

10.4. Written Examination Dates and Times

- 10.4.1. Two **closed book** examinations will be held as follows:

Module 1: Introduction to the Theory of Law and Law of Contract

- Monday **21 October 2024** 09:00 – 12:00

Module 2: Law and Practice of Arbitration

- Monday **28 October 2024** 09:00 – 12:00

- 10.4.2. The examination will focus on the field of Arbitration. There will, however, be a certain amount of overlapping as, inevitably, aspects of the Theory of Law and the Law of Contract will find their way into the subject of Arbitration.

- 10.4.3. Exams dates and times are fixed and cannot be changed for any reason whatsoever.

NOTE: Kindly note these dates in your diary now. **There will be no supplementary examinations and no time extensions will be granted.**

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10.4.4. Exam scripts remain the property of the Association and are not returned to students.

10.5. Format

10.5.1. The exam papers will consist of a variety of short and essay type questions or multiple-choice questions, or a combination of both, designed to test your knowledge and understanding of the subject. The questions will test both your understanding and knowledge so that we will be able to establish your general understanding of the course material and whether you are able to apply in arbitral practice what you have learnt from the theoretical aspects of your studies.

10.5.2. Thus, while some of the questions will relate directly to material in your course notes and textbooks, certain of the questions will ask you to apply the principles and techniques that you have learnt to practical situations.

10.5.3. The exams are **closed book** examinations and students will **NOT** be allowed to bring any course material, notes, books etc. into the examination. Students will be expected to have a working knowledge of both the [Arbitration Act 42 of 1965](#) and the [2021 Edition of the Association’s Rules for the Conduct of Arbitrations](#). Copies of these will **NOT** be available in the exam.

10.6. Examination Technique

10.6.1. Please read the questions carefully. It is not our policy to set trick questions. However, like in arbitral practice, a shade of meaning in a question may make an essential difference to an answer.

10.6.2. Be sure that you understand exactly what the examiner is asking before you start to answer the question. See also [paragraph 7.11](#) [*Structure of Assignments and Examination Answers*] above.

10.6.3. The reasons for your answers are as important as the answers themselves. Sometimes it will not be very difficult to guess the right answer but to give the right answer for the wrong reasons, or for no reason at all, will not earn you many marks.

10.6.4. No doubt you will discover that in law and in aspects of arbitration as well, the answer to a particular problem or situation may be very uncertain and indeterminate and the reasons, for and against a particular point of view, then become all-important.

10.6.5. Gauge the amount of time that you will need to spend on each question and hence the likely length of each answer from the number of marks allocated to the various questions. If a

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considerable number of marks have been allotted to a seemingly simple and short problem then, clearly, the examiner is seeking a fair amount of detail in your answer. On the other hand, do not continue writing after you have provided a satisfactory answer to the question.

10.6.6. Padding will not earn you any extra marks. It may serve to alienate the marker who will have a considerable number of scripts to read through. A short, concise, clearly thought out and expressed answer will earn more marks than a lengthy, woolly, rambling exposition.

10.6.7. Finally, have mercy on the marker who will have to decipher your handwriting. Please write as clearly and legibly as possible and, if your writing is at all large or untidy, we suggest that you write on every alternate line of your answer book.

10.7. Preparing for the Examination

Remember that we will be seeking to evaluate your understanding of the principles and your ability to remember facts. Read with understanding and do not confine your reading to the course notes and textbooks but consult the various recommended books to which reference may be made. You will not be expected to remember and quote the names of a wide variety of decided cases, or the utterances of learned authorities, in support of your answers. However, reference to one or two of the best known of these may impress the examiner and earn a bonus mark or two (e.g. reference to the *B K Tooling* case when discussing the abatement of the contract price because the performance, although usable, is defective).

10.8. Examination Admission

10.8.1. Students who have complied with the requirements to write the examinations for the Modules for which they are registered will be advised of the venue of such examinations.

10.8.2. There is no additional fee involved for writing the examinations.

10.9. Examination and Final Results

Students will be notified by the Course and Member Manager of their results as soon as they become available, but no earlier than February 2025.

10.10. Assignment Submission, Workshop, Exam Dates, Etc.

10.10.1. Students are reminded to take note of and diarise the Assignment, Workshop and Exam dates as these must be adhered to.

10.10.2. Students who are undertaking courses, studies etc. other than those offered by the

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Association must ensure that they take note of the assignment, workshop, and exam dates. No clash of dates will be considered as exceptional circumstances or sufficient grounds for any exemption sought by a student.

11. STUDY GROUPS

- 11.1.1. Students who form study groups with other students, even if they are very small in size, must keep in mind that you must submit your own work when submitting assignments. Identical/substantially similar answers are not acceptable, and your tutors will refuse to mark such assignments. Working together includes a discussion of the assignment questions but does not mean copying another student's answer to any part of the assignment.
- 11.1.2. The Association respects the privacy of students and is precluded under the POPI Act from distributing any names or contact details of students enrolled on a course to other students.

12. PROBLEMS AND QUERIES

- 12.1.1. An inevitable consequence of any distance learning course is that it is difficult to achieve a personal relationship between student and tutor and to provide the facility for a student to consult the tutor about any difficulties the student may be experiencing.
- 12.1.2. If you have any problem in connection with your studies, you are required to submit it briefly but clearly in writing, together with your student number and e-mail address, to the Course Manager (coursecoordinator@arbitrators.co.za). The Course Manager will direct your correspondence to one of the tutors to deal with.
- 12.1.3. The compulsory workshops provide an ideal opportunity for students to raise queries and problems with tutors.

13. PLAGIARISM

- 13.1. The Association places great emphasis on integrity and ethical conduct in the preparation of assignments. These are fundamental qualities which any aspiring arbitrator must possess.
- 13.2. Students must be alert to the use of secondary material and the correct method which must be used in presenting and acknowledging references.
- 13.3. Students who submit assignments in which they do not acknowledge the use of secondary material (plagiarism) will be viewed in a serious light and it may have unpleasant

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consequences.

13.4. **No** marks will be awarded for assignment or exam answers in which plagiarism is evident.

13.5. Plagiarism includes:

- Texts which are copied by students out of a book or an article or from a website, without acknowledging the source, and pass it off as their own;
- Paraphrasing material (i.e. change the wording slightly) or use someone else's line of argument without acknowledging it.

13.6. Students normally complain that they cannot rewrite the study material in their own words. You need to get used to this since you will not have your study material on hand during the examination. The following is a simple guide as to how this problem can be addressed:

- Study the relevant study material until you understand it. While you are reading the material, make notes or lists of the key words and concepts;
- Put away your study material and summarise the portion under consideration in your own words by using your notes and a list of key words;
- Use the study material to finalise your summary with references to case law and other relevant authority.

13.7. Students can obtain assistance in correctly acknowledging references from the PULP Publication Style Guidelines, referred to in paragraph 7.6 [Citing Sources] above.

13.8. The rules regarding plagiarism apply equally to assignment and exam answers.

14. COPYRIGHT

14.1. This and all course material and documentation made available to students is protected by copyright. You may not sell, alter, or further reproduce or distribute any part of this document or your course material to any other person. This includes the publication of course material, assignment or exam questions or answers or any part thereof in such a manner that it may be accessed by anyone not expressly authorised to do so by the Association.

14.2. Where the Association provides any material to you in electronic format, you may only print from it for your own private study and research.

14.3. Associates, Fellows, and Students are not permitted to reproduce the Association's name,

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logo or any part thereof in any manner for any purpose without the prior written permission of the Association.

- 14.4. Failure to comply with the terms of this copyright notification may expose you to legal action and/or disciplinary action by the Association which may include the termination of your membership and prohibition of further participation in the Associations courses and/or other activities.

15. CODE OF CONDUCT

Students are subject to the Association’s [Code of Ethics](#) and are expected to interact with staff of the Association, tutors and fellow students with decorum. Discrimination, verbal and written abuse will not be tolerated. Disciplinary action will be taken against students who behave improperly.

16. DISCLAIMER

Associate Members do not qualify for appointment as arbitrators, adjudicators or mediators until Fellow Membership has been obtained. Associate Members are not permitted to hold themselves out as arbitrators, adjudicators or mediators endorsed by the Association until such time as they have attained Fellow Membership.

We wish you success with your studies and look forward to meeting you during the year.

TUTORS COMMITTEE

ASSOCIATION OF ARBITRATORS (SOUTHERN AFRICA) NPC