



# ACCELERATED FELLOWSHIP COURSE FOR ADVOCATES AND ATTORNEYS 2024

## COURSE INFORMATION BOOKLET

(Module 2 of Certificate Course and Modules 4A and 4B of Fellowship Course)

**Revision 6**



## Revision 6

# CONTENTS

<b>1.</b>	<b>INTRODUCTION TO THE COURSE .....</b>	<b>4</b>
<b>2.</b>	<b>APPLICATION AND LANGUAGE.....</b>	<b>6</b>
<b>2.3.</b>	<b>Withdrawal from the Courses .....</b>	<b>6</b>
<b>3.</b>	<b>E-LEARNING .....</b>	<b>7</b>
<b>4.</b>	<b>PRESCRIBED AND RECOMMENDED TEXTBOOKS.....</b>	<b>7</b>
<b>4.1.</b>	<b>Prescribed Textbooks .....</b>	<b>7</b>
	Module 2 .....	7
	Modules 4A and 4B.....	8
<b>4.2.</b>	<b>Recommended .....</b>	<b>8</b>
	Module 2: Law and Practice of Arbitration.....	8
<b>4.3.</b>	<b>Arbitration Act and Rules.....</b>	<b>8</b>
<b>4.4.</b>	<b>The George Quail Memorial Library of Arbitration .....</b>	<b>8</b>
<b>4.5.</b>	<b>The Association’s Website .....</b>	<b>9</b>
<b>5.</b>	<b>PROSPECTUS OF THE COURSE .....</b>	<b>9</b>
<b>5.1.</b>	<b>Module 2: The Law and Practice of Arbitration .....</b>	<b>9</b>
<b>5.2.</b>	<b>Module 4: The Law and Practice of Arbitration, International Arbitration, Evidence (Module 4B) and Award Writing (Module 4A) .....</b>	<b>9</b>
<b>6.</b>	<b>COURSE NOTES .....</b>	<b>10</b>
<b>7.</b>	<b>ASSIGNMENTS .....</b>	<b>10</b>
<b>7.3.</b>	<b>Due Dates for Assignments.....</b>	<b>10</b>
	Module 2: Law and Practice of Arbitration.....	10
	Module 4A: Award Writing.....	11
	Module 4B: Law and Practice of Arbitration, International Arbitration and Evidence .....	11
<b>7.4.</b>	<b>Instructions for Completing and Submitting Assignments .....</b>	<b>12</b>
<b>7.5.</b>	<b>General Comments on Assignments.....</b>	<b>13</b>
<b>7.6.</b>	<b>Citing Sources .....</b>	<b>14</b>
<b>7.7.</b>	<b>Internet References.....</b>	<b>15</b>
<b>7.8.</b>	<b>Assignment Mark Allocation .....</b>	<b>16</b>
<b>7.9.</b>	<b>Assignment Commentaries .....</b>	<b>16</b>
<b>7.10.</b>	<b>Answering Assignments.....</b>	<b>16</b>
<b>7.11.</b>	<b>Structure of Assignments and Examination Answers.....</b>	<b>17</b>
<b>8.</b>	<b>SEMINARS AND WORKSHOPS .....</b>	<b>18</b>
<b>8.2.</b>	<b>Compulsory Workshops.....</b>	<b>18</b>
	Module 2: Law and Practice of Arbitration.....	18
	Module 4A: Award Writing.....	18
	Module 4B: Law and Practice of Arbitration, International Arbitration and Evidence .....	18
<b>9.</b>	<b>ASSESSMENT .....</b>	<b>19</b>
<b>9.1.</b>	<b>Assignment Year Mark.....</b>	<b>19</b>

## Revision 6

9.2.	Exam.....	19
9.3.	Previous Examination Papers.....	20
9.4.	Final Year Mark .....	20
9.5.	Examination Admission .....	20
9.6.	Written Examination Dates and Times .....	20
	Module 2: Law and Practice of Arbitration.....	20
	Module 4A: Award Writing.....	20
	Module 4B: Law and Practice of Arbitration, International Arbitration and Evidence .....	20
9.7.	Format.....	21
9.8.	Examination Technique .....	22
9.9.	Preparing for the Examination .....	23
9.10.	Examination and Final Results .....	23
9.11.	Assignment Submission, Workshop, Exam Dates, Etc.....	23
10.	STUDY GROUPS .....	23
11.	PROBLEMS AND QUERIES .....	24
12.	PLAGIARISM.....	24
13.	COPYRIGHT .....	25
14.	CODE OF CONDUCT .....	26
15.	DISCLAIMER .....	26

## Revision 6

# 1. INTRODUCTION TO THE COURSE

- 1.1. We welcome you to the Association's Accelerated Fellowship Course in Arbitration. The Correspondence Courses of the Association of Arbitrators (Southern Africa) NPC (the Association) were inaugurated in 1985 and have been successful far beyond our expectations. Candidates who are successful in this course will be enrolled as Fellows of the Association and may thereby become eligible for appointment by the Association as arbitrators as and when the need arises.
- 1.2. The Accelerated Fellowship Course in Arbitration is designed specifically for members who are practising Advocates and Attorneys registered as such with the South African Legal Practice Council, wanting to become Fellows of the Association. This Course extends and expands the knowledge and skills that candidates have acquired because of their relevant Alternative Dispute Resolution experience gained during the practise of their professions. To complete this course successfully, candidates should plan in advance to devote substantial time to their studies on a daily basis throughout the year. This Course may be completed in one year, but experience has shown that busy practitioners seldom have enough time to attend all compulsory workshops, submit all compulsory assignments in time and devote enough time to the substantial volume of prescribed course material. Students are advised to give serious consideration to spreading completion of the course over two years.
- 1.3. This Course consists of the Law and Practice of Arbitration (Module 2 of the Certificate Course), Award Writing (Module 4A of the Fellowship Course) and the Law and Practice of Arbitration, International Arbitration, Evidence (Module 4B of the Fellowship Course). Any member wanting to undertake this Course may make application by completing the prescribed application form. Admission to this Course lies within the sole and final discretion of the Association.
- 1.4. The Association's Accelerated Fellowship Course is an online learning course which is presented exclusively through e-Learning. Students are expected to be able to independently work through the course material, undertake relevant research, source the necessary material, submit assignments, and prepare for the online examination. Students are required to attend pre-scheduled compulsory half-day online workshops and a compulsory 2-day workshop which will be held online, submit several compulsory assignments, and qualify for examination admission. Students, when applying for this course, are required to be familiar with the information and requirements for Modules 2, 4A and 4B as set out in this booklet.
- 1.5. Students will be required to have access to the Internet including the Zoom platform to be able to participate in workshops, download course material, submit compulsory assignments, receive communications from the Association, and write exams.

## Revision 6

- 1.6. A prospective applicant for this Course must be an Associate Member of the Association and, in addition thereto, must be a practising advocate or attorney registered as such with the South African Legal Practice Council for at least five uninterrupted years, and demonstrate to the satisfaction of the Association that they have relevant skills, competencies and experience in the law and practice of arbitration in South Africa.
- 1.7. 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.
- 1.8. 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.
- 1.9. This Course is a distance learning course in the full sense. 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 and Member Manager, but they are expected to pursue their studies in their own time and manner. Neither the Course and Member Manager nor any staff member of the Association will under any circumstances provide any student with copies of textbooks, journal articles, reported or unreported judgments, statutes or any form of study material.
- 1.10. While this Course may give you a sound theoretical acquaintance with the subject of arbitration, there is no substitute for practical experience. Students are therefore urged to seek any opportunity that might present itself to attend the various stages of an arbitral process. For this purpose, we encourage students to attend functions, lectures, workshops and other ADR related activities regularly presented by the Association. Such attendances may provide opportunities for students to become acquainted with ADR practitioners, to become involved in the real world of ADR practice and to make arrangements for the attendance of arbitral proceedings. The

## Revision 6

Association is not involved in such arrangements.

- 1.11. The tutors for the entire Course are all duly qualified and experienced Fellows of the Association. For the time being, the Faculty comprises Emeritus Professor David Butler (Mercantile Law: University of Stellenbosch), Advocate Donald Joubert, Advocate Pierre Rossouw SC, Advocate Tjaart van der Walt SC, Dr Tanya Hendry, Advocate Henk Louw and Advocate Mias Mostert. For purposes of this Course, Donald, Henk and Tanya are responsible for Module 2. Tjaart, Pierre and Mias are responsible for Module 4A and David is responsible for Module 4B.
- 1.12. The Association's Secretariat consists of Rochelle Appleton (General Manager), Mandisa Mthembu (Course and Member Manager), Michelle Venter (Financial Manager), René Vermaak (ADR Administration Manager), and Ndisha Lidzhegu (Data and IT Manager).
- 1.13. Mandisa is responsible for course co-ordination and bears the primary responsibility for the administration of this Course and all that this entails. We are all committed to ensure that you derive the maximum benefit and enjoyment from your studies.
- 1.14. We wish you joy 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 become 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. The presentation of the Association's courses, all course material, notes, documentation, and correspondence will be in the English language.

### 2.3. Withdrawal from the Courses

- 2.3.1. Students who wish to withdraw from this Course at any time or who do not write the exams will not be entitled to a refund unless finally determined otherwise in the sole discretion of the Association's Chair, Vice-chair and Treasurer jointly.
- 2.3.2. Students who withdraw from this Course or fail to write the exam at the end of the year for whatever reason will be required to apply for this Course during the following year and will be required to pay the full course fee.

## Revision 6

### 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 make application to undertake this Course may apply online or contact the Course and Member Manager for the necessary documents at [coursecoordinator@arbitrators.co.za](mailto:coursecoordinator@arbitrators.co.za).
- 3.2. Students are therefore required to have access to a stable un-interrupted Internet connection and possess the ability to use MS Word and to type in order to be able to download course material, submit [compulsory assignments](#), send and receive communications to and from the Association, and write the online [exams](#). Students must be able to undertake this 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 consider the differences critically. The views given in the prescribed books will not necessarily be correct 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. The learning process associated with this Course is a life-long one. The Course is intended only to provide students with the essential skills and knowledge to embark on their own journeys through the fascinating and rewarding world of arbitral practice.

#### 4.1. Prescribed Textbooks

Students are required to purchase these books (alternatively to arrange to have unrestricted access thereto) for purposes of completing this course.

#### Module 2

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

**NOTE:** This publication is currently out of print but authorised copies may be purchased from the Association through the Course and Member Manager at

## Revision 6

[coursecoordinator@arbitrators.co.za](mailto:coursecoordinator@arbitrators.co.za).

### Modules 4A and 4B

- Students will be provided with module-specific prescribed course material at the commencement of the academic year.

## 4.2. Recommended

It is recommended that the following textbooks are purchased for study purposes, alternatively that students have access thereto, but they are not essential.

### Module 2: Law and Practice of Arbitration

- Ramsden, PA *McKenzie's The Law of Building and Engineering Contracts and Arbitration*, 7<sup>th</sup> Edition (Juta & Co Ltd, 2014).
- Ramsden, PAA *The Law of Arbitration South African and International Arbitration*, 2<sup>nd</sup> Edition (Juta & Co LTD, 2018).
- Mustill, MJ & Boyd SC, *International Commercial Arbitration*, 2<sup>nd</sup> Edition (LexisNexis UK, 1989).

## 4.3. Arbitration Act and Rules

Copies of the Arbitration Act 42 of 1965 (the Domestic Arbitration Act), the International Arbitration Act 15 of 2017 and the 2021 Edition of the Association's Standard Procedure Rules for the Conduct of Arbitrations may be provided with your notes. These are also available on the Association's website.

## 4.4. The George Quail Memorial Library of Arbitration

- 4.4.1. The Association's George Quail Memorial Library is administered by the Secretariat of the Association. It is housed in the Association's Head Office at Sandown House, 3<sup>rd</sup> Floor, Block B, 2 Norwich Close (off 5<sup>th</sup> Street), Sandown, and may be used by students during office hours. Wi-Fi connectivity is available.
- 4.4.2. The Library includes most of the available textbooks relating to arbitration and many others on related subjects including, amongst others, complete sets of the South African Law Reports and the Commercial Law Reports. The library is open to the Association's students and enquiries may be made to the Secretariat.
- 4.4.3. Students are not permitted to borrow books but may read these at the library.



## Revision 6

### 4.5. The Association's Website

The Association's website ([www.arbitrators.co.za](http://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 and network with colleagues within the Association and other ADR practitioners.

## 5. PROSPECTUS OF THE COURSE

This Course is divided into modules.

### 5.1. Module 2: The Law and Practice of Arbitration

- 5.1.1. Students are required to study the prescribed textbooks and notes which are provided for this Course.
- 5.1.2. *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 this 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.

### 5.2. Module 4: The Law and Practice of Arbitration, International Arbitration, Evidence (Module 4B) and Award Writing (Module 4A)

- 5.2.1. Module 4 comprises the Law and Practice of Arbitration including International Arbitration, Evidence and Procedure in Arbitration Proceedings (Module 4B) and Award Writing (Module 4A).
- 5.2.2. Module 4B is considerably more advanced than the Law and Practice of Arbitration in Module 2 of the Certificate Course and will require substantially more effort from students.
- 5.2.3. Module 4A will similarly require significant time and effort from students, particularly on the levels of logical reasoning, the assimilation of facts, the identification of applicable legal principles, the sourcing of relevant authorities and the ability of

## Revision 6

students to express themselves in proper English. All of the aforesaid are skills developed through repetitive practice and the reading of judgments, particularly those of the former Appellate Division and the Supreme Court of Appeal.

## 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 the 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 the 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 2: Law and Practice of Arbitration

- 7.3.1. 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

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

## Revision 6

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

7.3.3. Closing dates for assignments must be strictly adhered to. **The submission of all assignments is a prerequisite for exam admission.** Refer to paragraph 9.10 for further information.

### Module 4A: Award Writing

7.3.4. 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
M4A/1	Thursday 18 April 2024
M4A/2	Thursday 13 June 2024
M4A/3	Thursday 15 August 2024

7.3.5. **Assignments are compulsory** and will be marked by the relevant tutors. Due to the unique nature of award writing, only impression marks will be allocated. There are no model answers for award writing assignments. No individual comments will be supplied. The workshops presented by the tutors are intended to address questions by students. These assignments form an important part of this Course as they enable students to gauge their understanding of the subject by applying the principles which they have studied to specific problems.

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

7.3.6. Closing dates for assignments must be strictly adhered to. **The submission of all assignments is a prerequisite for exam admission.** Refer to paragraph 9.10 for further information.

7.3.7. Admission for the Module 4A Award Writing exam requires a minimum mark of **50%** for each of the three compulsory award writing assignments.

### Module 4B: Law and Practice of Arbitration, International Arbitration and Evidence

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

**Revision 6**

ASSIGNMENT CODE	DUE DATE
M4B/1	Thursday 2 May 2024
M4B/2	Thursday 11 July 2024
M4B/3	Thursday 19 September 2024

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

- 7.3.10. Closing dates for assignments must be strictly adhered to. **The submission of all assignments is a prerequisite for [exam admission](#)**. Refer to [paragraph 9.10](#) 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.** Assignments submitted by students with their names will not be marked.
- 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.
- 7.4.6. Each assignment will contain specific instructions and requirements. Students are advised to pay careful attention thereto.

## Revision 6

### 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.
- 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.

<b>Enumerate</b>	Mention items or points one by one. No detail is required, and the result of an enumeration is a list of things or aspects.
<b>Indicate</b>	State briefly, in broad outline, without detail. An indication gives the reader the gist of the matter.
<b>Analyse</b>	Divide into sections or elements and discuss in full.
<b>Define</b>	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.

## Revision 6

<b>Distinguish</b>	Provide definitions but also indicate similarities and differences.
<b>Describe</b>	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”.
<b>Explain</b>	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”.
<b>Compare</b>	Set out how things differ from one another and in what ways they are similar. A good comparison also says, “why it is so”.
<b>Discuss</b>	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.
<b>Evaluate</b>	Assess or “determine the value of” something. This implies that you 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.
<b>Examine</b>	Examine and critically discuss a topic in terms of definite criteria or guidelines. Offer comments. Give your own opinion on the matter.
<b>Point out</b>	Present a premise logically by means of thorough reasoning.
<b>Summarise</b>	Give the key aspects of a topic.
<b>Illustrate</b>	Give examples or draw a diagram to elucidate a particular topic or subject.
<b>Interpret</b>	Explain or give the meaning of something in terms of a more common concept. Your explanation should be as practical as possible.
<b>Criticise</b>	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 a yes or a 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

## Revision 6

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);
- Do not refer to sources that you have not personally consulted;
- Unlike in assignments, it is not necessary to provide full references in the examination;
- Work copied directly or paraphrased from a textbook or any other source, including e.g. assignments from previous years, 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. Plagiarism will be penalised and a student may be subjected to a disciplinary process.

## 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: <https://www.aol.com>, last visited on 21 January 2003. Be aware that the law differs from

## Revision 6

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

- 7.8.1. For purposes of Modules 2 and 4B, 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.
- 7.8.2. For purposes of Module 4A, the length of the award will depend on the complexity of the facts and the legal principles involved. Only a percentage mark will be allocated, for example 75%. The percentage mark so allocated will represent an impression mark allocated by the relevant tutors after deliberation amongst themselves. There are no model answers in award writing and no individual commentaries will be provided.

### 7.9. Assignment Commentaries

- 7.9.1. For Modules 2 and 4B only, tutors will provide a general commentary on each of the compulsory assignments, including important points that they were looking for in the answers, and common mistakes. The commentaries should not be regarded as model answers. 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.
- 7.9.2. For Module 4A, tutors will provide guidance during scheduled workshops and they may also from time to time provide guidance in the form of notes published on the e-Learning portal.

### 7.10. Answering Assignments

- 7.10.1. Assignments are to be answered on an open book basis. When answering the questions, students are expected to use the prescribed books, course notes and other appropriate reference material. When making statements in answers, students should quote the relevant authority, e.g. Wille page 67, Gibson page 191 etc. either in the text of an answer or in the form of footnotes. For Modules 2 and 4B all answers should also contain a list of authorities at the end of the answer, e.g. *SA Mercantile and Company Law* by JTR Gibson; *The Law of Contract in SA* by RH Christie. The list of authorities requirement is not applicable to Module 4A.



## Revision 6

- 7.10.2. While every effort will be made to mark and return your answer papers to you or provide you with the relevant marks, as the case may be, as quickly as possible it must be borne in mind that the processes of assembling the answer papers, sending them to tutors for marking, marking them, and finally returning them and processing marks take considerable time. Students should not expect to receive their papers or marks back in less than approximately four to six weeks.
- 7.10.3. Assignment answers are to be in English. Students are advised not to submit handwritten assignments. If this can for good reason not be avoided, 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. Number pages and paragraphs. Do not number headings. 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 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.

## Revision 6

## 8. SEMINARS AND WORKSHOPS

- 8.1.1. Booking forms providing details regarding the venues and times for the seminars and workshops will be sent to students, the cost of which is included in the course fee.

### 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 2, 4A and 4B will be held as follows:

#### 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

#### Module 4A: Award Writing

WORKSHOP	DATE
09:00-12:00	Saturday 25 May 2024
09:00-12:00	Saturday 5 October 2024

#### Module 4B: Law and Practice of Arbitration, International Arbitration and Evidence

WORKSHOP	DATE
18:00-19:30	Wednesday 13 March 2024
18:00-19:30	Wednesday 15 May 2024
18:00-19:30	Tuesday 6 August 2024
08:30-17:00	Thursday 12 September 2024

## Revision 6

WORKSHOP	DATE
08:00-15:30	Friday 13 September 2024

- 8.2.2. At these workshops, tutors will deal with those aspects of the course which appear to present challenges 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. From time to time it may become necessary to reschedule workshops. Students will be advised in advance of any postponements or rescheduling of workshops.
- 8.2.4. Students are advised to note and schedule the relevant dates in their diaries now.

## 9. ASSESSMENT

### 9.1. Assignment Year Mark

**NOTE:** It is a compulsory requirement that students must submit all compulsory assignments in order to be admitted to write the exams.

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% in the examination **before** the Assignment Year Mark will be taken into consideration.
- 9.2.3. Students undertaking Modules 2, 4A and 4B are required to obtain a minimum mark of 50% for each Module to pass the examination.
- 9.2.4. Students who fail the examination in any of the Modules will be required to undertake the relevant Module again.

**NOTE:** There will be no supplementary oral or written exams in any of the Modules.

## Revision 6

### 9.3. Previous Examination Papers

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No previous examination papers are available for any of the Modules.

### 9.4. Final Year Mark

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- 9.4.1. Students who pass the exams in all three Modules and obtain a Final Year Mark of more than 50% will receive an appropriately inscribed certificate.
- 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 or students each year.

### 9.5. Examination Admission

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- 9.5.1. Students are required to submit **all compulsory assignments timeously** in order to be admitted to write the exam. To gain examination admission, students are required to obtain a **minimum of 40%** for each compulsory assignment in Modules 2 and 4B, and a **minimum of 50%** for each compulsory assignment in Module 4A.
- 9.5.2. Students who have complied with the requirements to write the examinations for the Modules for which they are registered will be advised of the platform/venue of such examinations.
- 9.5.3. There is no additional fee involved for writing the examinations.

### 9.6. Written Examination Dates and Times

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- 9.6.1. Examinations will be held as follows:

#### Module 2: Law and Practice of Arbitration

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

#### Module 4A: Award Writing

- Monday **11 November 2024** 09:00 – 14:00

#### Module 4B: Law and Practice of Arbitration, International Arbitration and Evidence

- Monday **18 November 2024** 09:00 – 14:00

## Revision 6

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

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

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

## 9.7. Format

9.7.1. The Module 2 exam will be a **CLOSED BOOK** examination and students will **NOT** be allowed to bring any course material, notes, books etc. into the examination or to consult these electronically or otherwise. 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 Standard Procedure Rules for the Conduct of Arbitrations. Copies of these will **NOT** be available in the exam.

9.7.2. The Module 4A and Module 4B exams will be **OPEN BOOK** examinations.

9.7.3. For Modules 2 and 4B, 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. Thus, while some of the questions will relate directly to material in your course notes and textbooks, certain of the questions will require an application of the principles and techniques that you have learnt to practical situations.

9.7.4. For Module 4A, the exam paper will consist of a single factual scenario similar to the three scenarios presented for purposes of the award writing assignments. Students will be required to write an award in the proposed format and the award should finally determine all disputes arising from the factual scenario including, if applicable, all matters relating to interest and costs. This exam paper is not intended to test a student's knowledge of the law. Where legal principles are relevant, students will be informed accordingly and provided with the necessary statutory provisions and/or case law in good time before the exam. The Association bears the responsibility to ensure that Fellows appointed to act as arbitrators have the ability to perform this function in a competent and professional manner. Therefore the intention with this exam paper is to determine whether a student has the ability to accurately extract the factual essence of a dispute from a factual scenario, to identify the applicable

## Revision 6

legal principles and, above all, write an award which will not be subject to review and will determine the dispute/s in a logically reasoned manner in proper English. Logical reasoning is the key to success in this exam paper. In short, this exam paper is intended to test students' fitness to be certified as Fellows of the Association and thereby to become eligible for appointment as arbitrators.

### 9.8. Examination Technique

- 9.8.1. Please read the questions carefully. It is not the Faculty's 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.
- 9.8.2. Be sure that you understand exactly what the examiner is asking before you start to answer the question. See also Section 7.25 above on the structure of answers.
- 9.8.3. The reasons for your answers are as important as the answers themselves. Sometimes it will not be 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.
- 9.8.4. 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. The reasons for and against a particular point of view then become all-important.
- 9.8.5. Gauge the amount of time that you will need to spend on each question and the likely length of each answer from the number of marks allocated to the various questions. If a 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.
- 9.8.6. Padding will not earn you any extra marks. It may serve to alienate the marker who will have a considerable number of scripts to mark. A short, concise, clearly thought out and expressed answer will earn more marks than a lengthy, woolly, rambling exposition.
- 9.8.7. Finally, students are encouraged to type their answers. Manuscript answers will not be penalised, but 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, the Faculty suggest that you write on every alternate line of your answer book.

## Revision 6

### 9.9. Preparing for the Examination

Remember that the Faculty will be seeking to evaluate your understanding of facts and principles, your ability to remember facts accurately and, most importantly, to convey the aforesaid in a logically reasoned manner in proper English. Read with understanding and do not confine your reading to the course material, 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).

### 9.10. 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 2024.

### 9.11. Assignment Submission, Workshop, Exam Dates, Etc.

- 9.11.1. Students are reminded to take note of and diarise the Assignment, Workshop and Exam dates as these must be adhered to.
- 9.11.2. Students who are undertaking courses, studies etc. other than those offered by the 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.

## 10. STUDY GROUPS

- 10.1.1. Students who form study groups with other students, even if they are very small in size, must keep in mind that they must submit their own work when submitting assignments. Identical/substantially similar answers are not acceptable. This may lead to penalisation and/or disciplinary action. Working together includes a discussion of the assignment questions but does not mean copying another student's answer to any part of the assignment.
- 10.1.2. The Association respects the privacy of students and is precluded under the POPI Act 4 of 2013 from disclosing any names or contact details of students on a course to other students. Accordingly, the Association will not be involved in any manner in the

## Revision 6

formation or activities of study groups.

## 11. PROBLEMS AND QUERIES

- 11.1.1. An inevitable consequence of any distance learning course is that it is not possible to achieve a personal relationship between student and tutor and to provide the facility for a student to consult a tutor about any difficulties the student may be experiencing.
- 11.1.2. 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 email address, to the Course and Member Manager ([coursecoordinator@arbitrators.co.za](mailto:coursecoordinator@arbitrators.co.za)). The Course and Member Manager will direct your correspondence to the relevant tutor/s to deal with.
- 11.1.3. The compulsory workshops provide an ideal opportunity for students to raise queries and problems with tutors.

## 12. PLAGIARISM

- 12.1.1. The Association places great emphasis on integrity and ethical conduct in students' preparation of assignments. These are fundamental qualities which any aspiring arbitrator must possess.
- 12.1.2. Students must be alert to the use of secondary material and the correct method which must be used in presenting and acknowledging references.
- 12.1.3. 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 consequences.
- 12.1.4. **No** marks will be awarded for assignment or exam answers in which plagiarism is evident.
- 12.1.5. 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.



## Revision 6

12.1.6. Students normally complain that they cannot rewrite the study material in their own words. You need to get used to this since you might not have your study material on hand during the examination and, in arbitral practice, you will rarely have applicable study material on hand to fall back on. 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.

12.1.7. Students can obtain assistance in correctly acknowledging references from the [PULP Publication Style Guidelines](#), referred to in [Section 7.25](#) above.

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

## 13. COPYRIGHT

13.1.1. This document 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.

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

13.1.3. Associates, Fellows, and Students are not permitted to reproduce the Association's name, logo or any part thereof in any manner for any purpose without the prior written permission of the Association.

13.1.4. 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 Association's courses and/or other activities.

## Revision 6

# 14. CODE OF CONDUCT

As Associate Members, 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.

# 15. DISCLAIMER

Associate Members do not qualify for appointment as arbitrators, adjudicators or mediators until Fellowship status 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 Fellowship status.

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

## TUTORS COMMITTEE

## ASSOCIATION OF ARBITRATORS (SOUTHERN AFRICA) NPC