ASSOCIATION OF ARBITRATORS (Southern Africa) NPC

Arbitrarily Speaking

Issue 11 of 2026

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MESSAGE FROM THE EDITOR

Welcome to the November 2026 edition of *Arbitrarily Speaking*. Chris Binnington opens with the question many neutrals are now asking: "*What happens to confidentiality when submissions, witness statements or draft awards go into an AI tool?*". He argues that AI can help with heavy lifting but the arbitrator, adjudicator or dispute board member must remain the true author of every decision.

Adine Abro and Sumari Benade take us to a stalled wind farm where project finance and business rescue under Chapter 6 of the Companies Act collide and the site falls silent while nobody has the authority to sign for the concrete.

Don't miss the Association's important upskilling opportunities.

Finally, Uncle Oswald returns from the archives to explain why an arbitrator cannot simply decide to act as an expert instead.

Questions or comments? Let us know **here**.

TOOLS OF THE TRADE

THE ARBITRATOR, THE ALGORITHM AND THE CONFIDENTIAL QUESTION

Chris Binnington explores the tension which arises as a result of the use of AI techniques in construction dispute resolution by third party neutrals. In particular, the problems of confidentiality when dispute submissions or aspects of the dispute process are uploaded into a Large Language Model (LLM).

> ***The prudent course is to approach AI-assisted work with the same degree of care that would be applied when engaging external consultants, cloud-based document management systems or third-party transcription services.***
>
> **Chris Binnington**

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ADR IN ACTION

THE WIND KEEPS BLOWING: WHEN PROJECT FINANCE AND BUSINESS RESCUE LOCK HORNS

Adine Abro and Sumari Benade unpack thee collision of project finance and business rescue under Chapter 6 of the Companies Act 71 of 2008.

> ***As lawyers and arbitrators, we usually meet these projects much later, when that deadlock has hardened into claims, counterclaims, and carefully prepared arbitration bundles. By then, the story has been reduced to dates, amounts, and contractual entitlements.***
>
> **Adine Abro and Sumari Benade**

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EDUCATION STATION



2027 ONLINE ARBITRATION TRAINING – APPLICATIONS OPEN

The Association is excited to announce that applications are open for the 2027 arbitration courses.

We encourage prospective students to submit your applications early.

Closing date: **28 February 2027**

Click HERE for More Information and to Apply

THE ASSOCIATION'S EVENTS



ADR QUESTIONS AND ANSWERS

Your chance to join our Western Cape Regional Branch Chair, **Jonathan Mitchell**, and participate in the discussions, debates and deliberations around 2 case studies. Let your voice be heard. This popular online workshop is worth its weight in gold.

Date: **27 November 2026**

Click HERE for More Information and to Register



ARBITRATING IN THE FLOODLIGHTS: LESSONS FROM THE *NOTTINGHAM FOREST FC V THE FOOTBALL ASSOCIATION* CASE

Join **Kim Franklin KC**, one of the World's leading arbitrators, for this unique insight into one of the most talked about sports arbitration disputes in recent years.

Date: **10 December 2026**

Click HERE for More Information and to Register

OTHER WORTHWHILE EVENTS



SAICE 2027 PRESIDENTIAL INAUGURATION

The Association is a proud sponsor of this prestigious event.

Date: **26 November 2026**

Click HERE for More Information

UNCLE OSWALD'S Q&A FORUM

IS AN APPOINTED ARBITRATOR ENTITLED TO UNILATERALLY DETERMINE A REFERRED DISPUTE AS AN EXPERT?

Uncle Oswald sets out the differences between arbitration and expert determination.

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Arbitrarily Speaking **is the official newsletter of the Association of Arbitrators (Southern Africa) NPC.**

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