FELLOWSHIP ADMISSION COURSE 2027

INFORMATION BOOKLET
(Modules 3 and 4)

Revision 2



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CONTENTS

1. INTRODUCTION TO THE COURSE 4

1.12. Language 5

2. COURSE APPLICATION POLICIES 5

2.3. Completion Period 5

2.4. Deferral 6

2.5. Attempts Allowed 6

2.6. Credit Validity – Fellowship Course 6

2.7. Withdrawal from the Courses 6

2.8. Specific Requirements for Module 4 6

Separate Year Marks 6

Re-enrolment for a Failed Sub-module 6

Completion Period for Sub-modules 6

Certification 7

3. APPLYING 7

4. E-LEARNING 7

5. PRESCRIBED AND RECOMMENDED TEXTBOOKS 7

5.4. Prescribed Textbooks 8

Module 3: Advanced Law of Contract and Delict 8

Module 4: Law and Practice of Arbitration, International Arbitration, and Evidence 8

5.5. Recommended Textbooks 8

Module 3: Advanced Law of Contract and Delict 8

Module 4: Law and Practice of Arbitration, International Arbitration, and Evidence 9

5.6. Periodicals 9

5.7. Statutes and Rules 9

5.8. Judgments and Law Reports 9

5.9. The George Quail Memorial Library of Arbitration 10

5.10. The Association's Website 10

6. PROSPECTUS OF THE COURSE 11

6.1. Module 3: Advanced Law of Contract and Delict 11

6.2. Module 4: The Law and Practice of Arbitration, International Arbitration, Evidence (Module 4B) and Award Writing (Module 4A) 11

7. COURSE NOTES 11

8. ASSIGNMENTS 11

8.3. Due Dates for Assignments 12

Module 3: Advanced Law of Contract and Delict 12

Module 4: Law and Practice of Arbitration, International Arbitration, Evidence and Award Writing 12

8.4. Instructions for Completing and Submitting Assignments 13

8.5. General Comments on Assignments 13

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8.6. Citing Sources 15
8.7. Internet References 16
8.8. Assignment Mark Allocation 16
8.9. Assignment Commentaries 16
8.10. Answering Assignments 17
8.11. Structure of Assignments and Examination Answers 17
8.12. Award Writing Assignment Guidelines 18
9. SEMINARS AND WORKSHOPS 19
9.1. Compulsory Workshops 20
Module 3: Advanced Law of Contract and Delict 20
Module 4B: Law and Practice of Arbitration, International Arbitration, and Evidence 20
9.2. Award Writing Workshops 20
Module 4A: Award Writing 20
10. ASSESSMENT 21
10.1. Assignment Year Mark 21
10.2. Exam 21
Module 3: Advanced Law of Contract and Delict 22
Module 4: Law and Practice of Arbitration, International Arbitration, Evidence and Award Writing 22
10.3. Previous Examination Papers 22
10.4. Final Year Mark 22
10.5. Admission to Fellowship Course 22
11. EXAMINATIONS 23
11.1. Examination Admission 23
11.2. Written Examination Dates and Times 23
Module 3: Advanced Law of Contract and Delict 23
Module 4: Law and Practice of Arbitration, International Arbitration, and Evidence 23
11.3. Format 23
11.4. Examination Technique 24
11.5. Preparing for the Examination 24
11.6. Examination Registration 25
11.7. Examination Marks - Minimum 25
11.8. Examination and Final Results 25
11.9. Assignment Submission, Workshop, Exam Dates, Etc. 25
12. STUDY GROUPS 25
13. PROBLEMS AND QUERIES 26
14. PLAGIARISM 26
15. COPYRIGHT 27
16. CODE OF CONDUCT 27
17. DISCLAIMER 28

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1. INTRODUCTION TO THE COURSE

1.1. We welcome you to the **Fellowship Admission Course** (the Fellowship Course).

1.2. Aspirant arbitrators seeking to be elected as **Fellows** of the Association of Arbitrators (Southern Africa) NPC[1], and thereby become eligible for appointment as arbitrator, are required to apply for and successfully complete this **Fellowship Admission Course**. Would-be candidates for this course must in turn have successfully completed the **Certificate Course in Arbitration** offered by this Association and have met the admission requirements for the Fellowship Course.

1.3. 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 limited knowledge of the laws and rules that apply to the situation that they have to 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.

1.4. 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 that 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.

1.5. This course is an online distance learning course in the sense that contact between students and tutors is 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 will be 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, judgments or any form of study material.**

1.6. While this or any similar course may give students a sound theoretical acquaintance with the subject of arbitration, there can be no substitute for practical experience and students are urged to seek any opportunity to become involved in arbitration proceedings. Our Fellows are often in a position to arrange such attendances, for example by involving students as

[1] Hereinafter referred to as "the Association".

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confidential clerks, subject to confidentiality agreements. The Association is not involved in such arrangements. Students are encouraged to take the initiative and contact arbitrators and party representatives known to them.

1.7. 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.

1.8. The tutors for the entire **Correspondence Course** programme, including the **Certificate Course in Arbitration** (the Certificate Course), the **Fellowship Admission Course** (the Fellowship Course), **Accelerated Fellowship Course for Advocates and Attorneys** (the Accelerated Course), and the **Specialisation in Construction Law Course** (the Specialisation Course), are all duly qualified and experienced **Fellows** of the Association.

1.9. 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).

1.10. 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.

1.11. We who have been involved in the preparation and presentation of this correspondence course wish you enjoyment and success in your studies.

1.12. Language

The presentation of the Association's courses, all course material, course notes, documentation, and correspondence will be in the English language.

2. COURSE APPLICATION POLICIES

2.1. In addition to the requirements for passing each module, as outlined in the relevant course information booklet, students must take note of the following policies governing the completion of the correspondence courses offered by the Association.

2.2. These policies apply to registering into any module forming part of the **Certificate Course** and the **Fellowship Admission Course**.

2.3. Completion Period

2.3.1. Students must successfully complete a module within two (2) years from their first attempt

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for that module. In total, a maximum period of three (3) years is allowed to successfully complete any module.

2.3.2. A student who does not successfully complete a module within the three (3) year maximum period will not be permitted to re-apply for that module.

2.4. Deferral

A student may defer writing the exams and completing a module once only.

2.5. Attempts Allowed

A student who fails the same module twice will not be permitted to re-apply for that course.

2.6. Credit Validity – Fellowship Course

2.6.1. Credits obtained from completing a **Fellowship Course** module, will remain valid for three (3) years from the date of completion for the purpose of completing the course.

2.6.2. Students who successfully complete the **Fellowship Course** and attend and participate in the compulsory two-day workshop will receive an appropriately inscribed certificate and will be eligible for admission as **Fellows** of the Association.

2.7. Withdrawal from the Courses

2.7.1. Students who withdraw from the courses at any time or who do not write the exams will not be entitled to a refund. **Course fees are non-refundable.**

2.7.2. Students who withdraw from the course or fail to write the exams 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.

2.8. Specific Requirements for Module 4

Separate Year Marks

2.8.1. Students will receive separate year marks for Modules 4A and 4B.

Re-enrolment for a Failed Sub-module

2.8.2. A student who fails one of the sub-modules may re-enrol for that specific sub-module only.

Completion Period for Sub-modules

2.8.3. Both sub-modules must be successfully completed within two (2) calendar years of one another. If a student fails to meet this requirement, they will be required to repeat the

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entire Module 4.

2.8.4. Example: If a student fails a sub-module in 2026, they must re-enrol for and pass that sub-module during or before 2028 to avoid repeating the full module.

Certification

2.8.5. Students who (a) pass the examination and obtain a Final Year Mark of at least 50% for each sub-module, and (b) attend the compulsory two-day workshop, will be awarded an appropriately inscribed certificate.

3. APPLYING

3.1. The **Fellowship Course** is available to those members who have successfully completed the **Certificate Course** and have met the minimum entry criteria to be eligible to apply for the course. In this regard, please refer to paragraph 10.5 of the **Certificate Course Information Booklet** which is available on the Association's **website**.

4. E-LEARNING

4.1. 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**.

4.2. Click **here** to access the **e-Learning Portal**.

4.3. Students are therefore required to have access to a stable un-interrupted Internet connection, possess the ability to use MS Word and 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.

5. PRESCRIBED AND RECOMMENDED TEXTBOOKS

5.1. An arbitrator, like any other professional, requires access to an extensive library. Although there are some excellent books on the various subjects that comprise this course, there are none that are so comprehensive that they contain all that one could reasonably need to know about a particular subject. Nor are the opinions of any author, however learned he/she may be, to be accepted without question. Other authors whose opinions are also worthy of respect may, for good and proper reasons, have different views. Consequently, to arrive at a well-balanced view of a particular matter, it is necessary to consult several different eminent authorities on the point and to compare what they say. To the extent that their views may

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differ, it is necessary to examine their reasons for their differing points of view and to establish, for the particular matter in question, which approach appears to be the most logical and appropriate.

5.2. The textbooks that have been prescribed for this course are not necessarily the best, or only, textbooks 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 textbooks must be studied for this course, students should not limit themselves to these textbooks. Students should read the recommended textbooks, compare them with the prescribed textbooks and consider the differences critically. The views given in the prescribed textbooks will not necessarily be correct and, in certain circumstances, other views may be preferred. There will be other textbooks, not on the lists of prescribed or recommended textbooks, which may be consulted as well.

5.3. The prescribed or recommended textbooks are obtainable from most reputable book sellers and publishers such as **LexisNexis** and **Juta**.

5.4. Prescribed Textbooks

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

Module 3: Advanced Law of Contract and Delict

- Hutchison D and Pretorius C (ed) *The Law of Contract in South Africa*, 4th Edition (Oxford University Press Southern Africa, 2022);
- Neethling-Potgieter-Visser *Law of Delict*, 8th Edition (LexisNexis, 2021).

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

- Butler D and Finsen E *Arbitration in South Africa: Law and Practice* (Juta & Co Ltd, 1993). This book is out of print. However, photocopies may be purchased from the Association;
- PJ Schwikkard and TB Mosaka *Principles of Evidence*, 5th Edition, Juta (2023).

5.5. Recommended Textbooks

While it is not strictly necessary to purchase these books for the course, you should endeavour to arrange access to at least some of them for study purposes. Most of them may be found in the George Quail Memorial Library of Arbitration administered by the Association at its head office in Sandton.

Module 3: Advanced Law of Contract and Delict

- Du Bois F *Wille's Principles of SA Law*, 9th Edition, (Juta & Co Ltd, 2007);

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- Bradfield GB *Christie's The Law of Contract in South Africa*, 8th Edition (LexisNexis, 2022);
- Loubser M and Midgley R (eds), *The Law of Delict in South Africa*, 3rd Edition (Oxford University Press Southern Africa, 2018).

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

- Blackaby N & Partasides C *Redfern and Hunter on International Arbitration*, 6th Edition (OUP 2015);
- Mustill MJ and Boyd SC *The Law and Practice of Commercial Arbitration in England*, 2nd Edition (Butterworths 1989);
- Ramsden PA *McKenzie's The Law of Building and Engineering Contracts & Arbitration*, 7th Edition (Juta & Co Ltd, 2014);
- Sutton D, Gill J & Gearing M *Russell on Arbitration*, 24th Edition (Sweet & Maxwell, 2015);
- Zeffert & Paizes *The South African Law of Evidence*, 2nd Edition (LexisNexis, 2010).

NOTE: Candidates should ensure that they are using the latest editions of the textbooks. Earlier editions may contain material that is no longer up-to-date or correct.

5.6. Periodicals

- 'Arbitration' published quarterly by the Chartered Institute of Arbitrators in association with Sweet & Maxwell;
- 'Arbitration International' published quarterly by the London Court of International Arbitration and OUP;
- South African Law Reports (SALR), published by Juta & Co.

5.7. Statutes and Rules

Copies of the **Arbitration Act 42 of 1965**, the **International Arbitration Act 15 of 2017** and the relevant editions of the **Rules for the Conduct of Arbitrations** published by the Association are included in the course material which will be available for download from the e-Learning Portal. They are also available on the Association's **website**.

5.8. Judgments and Law Reports

5.8.1. It is in the judgments of the courts that principles of law are clarified and expounded. Students should familiarise themselves with the technique of finding and reading relevant judgments.

5.8.2. South African law reports are published by, for example, **LexisNexis** and **Juta**. As only a very

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small percentage of these are likely to be relevant to your studies, it is not recommended that students subscribe to these. It will be sufficient if students establish where they can consult these reports, which may be found in the various Bar libraries and in most attorneys' offices. The Association has electronic access to the major law report publications and the SA Law Reports are available in hard copy in the Association's George Quail Memorial Library of Arbitration. Students are entitled to make use of this facility during business hours at the Association's **offices**. **Staff members of the Association are not authorised either to assist students with research or to provide copies of law reports or any other publications.**

5.8.3. While the Association is unable to perform legal research on behalf of students, its George Quail Memorial Library of Arbitration. has a variety of books, including on arbitration.

5.8.4. Not all judgments are published in the law reports and some important decisions relating to arbitration remain unpublished. Copies of these are generally obtainable from the parties or from the legal representatives in the cases concerned. Many arbitrators have built up collections of important judgments concerning arbitration and the serious student should consider doing likewise. Many recent South African judgments of the High Court, the Supreme Court of Appeal and the Constitutional Court, both reported and unreported, are available on the Internet at **www.saflii.org** and LawLibrary South Africa (**https://lawlibrary.org.za/judgments/**).

5.8.5. Judgments of the Constitutional Court can be found at **www.concourt.org.za** and those of the Supreme Court of Appeal can be found at **www.supremecourtofappeal.org.za**.

5.9. The George Quail Memorial Library of Arbitration

5.9.1. The Association's George Quail Memorial Library is administered by the Secretariat of the 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 by members during business hours.

5.9.2. 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.

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

5.10. The Association's Website

The Association's **website** 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 such as ***Arbitrarily Speaking!***, **judgments** and information regarding **functions**,

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lectures and **workshops**. 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.

6. PROSPECTUS OF THE COURSE

The course is divided into two modules:

6.1. Module 3: Advanced Law of Contract and Delict

Module 3 comprises advanced courses in the Law of Contract and the Law of Delict. Students are expected to commence the study of these subjects in earnest as soon as they receive their course notes and list of textbooks. The course on the Law of Contract is much more advanced than that in the **Certificate Course** and students who took this course some time ago may find it necessary to revise the basic principles.

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

Module 4 comprises the Law and Practice of Arbitration, including Evidence and Procedure in Arbitration Proceedings (Module 4B) and Award Writing (Module 4A). Module 4 may be undertaken concurrently with or after the student has successfully completed Module 3. This module is considerably more advanced than the module on the Law and Practice of Arbitration in the **Certificate Course** and students who completed that module more than a year ago would benefit from revisiting the notes for that module before attempting Module 4.

7. COURSE NOTES

All course notes will be made available to the students for downloading from the e-Learning Portal on the day after the course registration closes, and during the course of the year.

8. ASSIGNMENTS

8.1. Students will be required to complete a number of written assignments in each module during the year. Note that submission of these assignments is compulsory. These assignments are to be submitted no later than the dates indicated below and **no extensions of time will be granted**. Marks achieved in assignments will be taken into consideration in the allocation of the Final Year Mark.

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8.2. Students are required to submit comprehensive assignments, written in narrative style, to demonstrate that they have substantially addressed each question.

8.3. Due Dates for Assignments

Module 3: Advanced Law of Contract and Delict

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

ASSIGNMENT CODE	DUE DATE
M3/1	Thursday **15 April 2027**
M3/2	Thursday **24 June 2027**
M3/3	Thursday **30 September 2027**

Module 4: Law and Practice of Arbitration, International Arbitration, Evidence and Award Writing

8.3.2. For students registered for this module, six assignments (the three indicated with the letter 'A' for Award Writing and the three indicated with the letter 'B' for the Law and Practice of Arbitration, International Arbitration and Evidence) are required to be submitted in writing no later than the following dates:

ASSIGNMENT CODE	DUE DATE
M4-A/1	Thursday **22 April 2027**
M4-A/2	Thursday **10 June 2027**
M4-A/3	Thursday **12 August 2027**
M4-B/1	Thursday **6 May 2027**
M4-B/2	Thursday **8 July 2027**
M4-B/3	Thursday **23 September 2027**

8.3.3. For students registered for both modules 3 and 4, the assignments submission dates remain the same. See below for the requirements to qualify to write the examinations.

8.3.4. Assignments **are compulsory** and will be marked. Certain assignments may be returned to students at the discretion of the relevant tutors. No Award Writing assignments will be

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returned to students. A written commentary for each assignment will either be transmitted to students or will be available for download from the e-Learning Portal. 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 material and prescribed textbooks.

8.3.5. Students are responsible for ensuring that the Association receives their assignments timeously.

8.3.6. Closing dates for assignments must be strictly adhered to. The submission of all assignments is a prerequisite for examination admission. **No extensions of time will be granted.**

8.4. Instructions for Completing and Submitting Assignments

8.4.1. All assignments are to be submitted via the e-Learning Portal in .pdf format.

8.4.2. Students will not be able to submit an assignment after midnight on the due dates. Students may submit their assignments before the due dates.

8.4.3. It would be greatly appreciated if assignments could be submitted typewritten and double spaced. If you do not have access to a computer, please write in block letters with a black pen and ensure that the scanned copy which you submit is clearly legible.

8.4.4. It is important that **only your student number appears on the assignment**. Assignments submitted with students' names written on them will not be accepted.

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

8.5. General Comments on Assignments

8.5.1. 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.

8.5.2. 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 dictionary. Subject terms may be defined in your course material and in prescribed textbooks. It is imperative to consult these as well. Important information is conveyed in the way in which the assignment is worded as well as through the hints and guidelines provided along with the assignment.

8.5.3. 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.

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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.

8.5.4. 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 assignment questions. These words enable you to determine the focus of the assignment.

8.5.5. 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 have to 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 should have criteria against which you can measure something; the end 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.

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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.

8.5.6. 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 final answer itself. The key to it all is logical reasoning[2] supported by applicable authority.

8.6. Citing Sources

8.6.1. When citing textbooks, judgments, articles, and so forth as an authority in your assignment answers, 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-G). Thereafter an abbreviated reference is sufficient (e.g. *Kanhym*);
- 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 you have not personally consulted.

NOTE: Unlike in assignments, it is not necessary to provide full references in the examinations.

8.6.2. Work copied directly or paraphrased from a textbook or any other source without

[2] Click **here** to access articles related to 'Logical Reasoning' contained in the Association's e-periodicals, *Arbitrarily Speaking!*.

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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 assignments 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;

8.6.3. Students are encouraged to refer to the Pretoria University Law Press (PULP) Publication Style Guidelines. Click **here**[3] to download the Style Guidelines;

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

8.7. Internet References

Information obtained on the Internet is acknowledged by reference to the particular website, followed by the date when the particular website was visited. The date is important because the contents of the page on the website may subsequently change, or the particular reference or even the whole website may disappear or be moved elsewhere. It follows that, besides saving or making a printout of the particular 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 and that the Internet is not always sensitive to this fact. Do not without good cause use, for example, an Australian legal article or judgment to substantiate a legal argument relevant to South African law.

8.8. 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.

8.9. Assignment Commentaries

8.9.1. Tutors may 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.

8.9.2. 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 any commentary on the mistaken

[3] **https://www.pulp.up.ac.za/**, last visited on 10 October 2026.

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assumption that it is a model answer.

8.9.3. Award writing assignments will not be provided with individual commentaries. Tutors will provide general commentaries on award writing assignments during compulsory workshops and they may also provide commentaries and guidance in the form of notes to students published on the e-Learning Portal.

8.10. Answering Assignments

8.10.1. 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 whatever 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 in a bibliography. In this regard, consult the **PULP Publication Style Guidelines** referred to above. It is not customary in arbitral awards to have a bibliography at the end, footnotes should be used in compliance with the **PULP Publication Style Guidelines**.

8.10.2. 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, having them moderated and finally returning them will take considerable time, and you should not expect to receive your papers back in less than approximately six weeks.

8.10.3. Assignment answers are to be in English. Handwritten assignments must be legible, otherwise, they will not be marked.

8.10.4. Students must submit their assignments in .pdf format through the e-Learning Portal.

8.11. Structure of Assignments and Examination Answers

8.11.1. 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.

8.11.2. Always use numbered paragraphs.

8.11.3. 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.

8.11.4. 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

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succeed, to disguise an inadequate understanding of the matter.

8.11.5. 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 submission.

8.12. Award Writing Assignment Guidelines

8.12.1. The writing of an award, which is the subject matter of Module 4A, is arguably the most important task that any arbitrator performs. It is the only way in which the arbitrator can convey to the parties why he or she has ultimately awarded in favour of one party or the other.

8.12.2. The award writing course material includes guidelines for the writing of awards such as:

- The Association's officially proposed guidelines as to the structure of an award;
- Video lectures by retired judges; and
- A journal article "Writing a Judgment" by Justice MM Corbett published in The South African Law Journal, 1998, Volume 115.

8.12.3. The mark given to an award writing assignment is always an impression mark given by at least two experienced senior arbitral award and judgment writers. The mark, amongst other things, takes into account the following:

[a] The format of the award;

[b] The substantive and formal requirements for a valid award;

[c] The use of language and grammar, particularly the use of plain English, which should be easily understood by the parties;

[d] Identification of the legal issues involved and how they are dealt with;

[e] How the evidence is dealt with, i.e. have common cause and disputed issues been correctly identified and how has the writer addressed issues related to conflicting or unopposed evidence;

[f] Whether the award deals with all the issues in dispute;

[g] The relevance of any authority which has been cited;

[h] Whether the award follows a clearly ascertainable, rational and logical thought process and whether it gives an appreciable understanding to the reader as to how and why the arbitrator arrived at the final decision;

[i] Whether the dispositive part of the award, i.e. the order is clear, unambiguous and comprehensive;

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[j] Whether the award has been carefully checked for grammar, spelling and typographical errors;

[k] The overall impression the award leaves with the reader.

8.12.4. The general award writing commentaries, which may be provided to students at the discretion of the tutors, do not necessarily cover all issues but may highlight key principles which need to be taken into consideration for improvement. The conclusion itself is not as important as the narrative and reasoning which brings you to the final conclusion. Clearly, ascertainable logical reasoning is arguably the most important aspect of arbitral award writing. This does not come naturally for all students. It may require considerable practice and substantial reading on the subject of logical reasoning[4].

8.12.5. The strength of any arbitral award lies in the parties being able to read and understand why the arbitrator has made a particular award, whether or not they agree with it. The quality of the award will give confidence to the parties as to the arbitrator's ability and ultimately determine the arbitrator's success in securing further appointments.

8.12.6. An award is ultimately the opinion of a particular arbitrator and must clearly express how and why such opinion has been reached.

8.12.7. In order to illustrate the point, we suggest that you compare your assignment against the judgments which you have read and have formed part of the course material of the various modules which you have undertaken. You will notice from the judgments (particularly those of the Supreme Court of Appeal and Constitutional Court) that, after having read them, you are left with an appreciable understanding of the legal issues, the relevant evidence and how this impacts on the legal issue, and why the court ultimately came to its conclusion/judgment. Arbitral awards are no different.

8.12.8. Module 4A tutors may from time to time post voluntary award writing assignments on the e-Learning Portal. These voluntary assignments are solely intended to provide students with the opportunity to practice their award writing skills. Students are encouraged to make full use of this opportunity. Your tutors have experienced that students, who have done so, displayed a significant improvement in their award writing skills. Voluntary assignments are not be submitted. They will not be marked.

9. SEMINARS AND WORKSHOPS

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

[4] Click **here** to access articles related to 'Logical Reasoning' contained in the Association's e-periodicals, *Arbitrarily Speaking!*.

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9.1. Compulsory Workshops

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

Module 3: Advanced Law of Contract and Delict

9.1.1. The following workshops on Advanced Law of Contract and Delict will be arranged online as follows:

WORKSHOP	DATE
17:00-19:00	Thursday **1 April 2027**
17:00-19:00	Thursday **17 June 2027**
17:00-19:00	Thursday **16 September 2027**

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

9.1.2. In order to successfully complete Module 4 and to become eligible for being elected as a **Fellow** of the Association, attendance at this two-day workshop is compulsory and students are required to make appropriate arrangements to remain in attendance for the entire duration of the workshop.

WORKSHOP	DATE
18:00-19:30	Wednesday **10 March 2027**
18:00-19:30	Wednesday **12 May 2027**
18:00-19:30	Tuesday **3 August 2027**
2-Day Workshop	Thursday **9 September 2027** and Friday **10 September 2027**

NOTE: Students will **only** become eligible for election as **Fellows** after having taken part at this compulsory two-day workshop and having passed the examinations. Please diarise these dates now.

9.2. Award Writing Workshops

Module 4A: Award Writing

9.2.1. In order to assist students with the technique and approach to award writing, the Association

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will present at least four Award Writing workshops through the course of the year. For the time being, the workshops will be presented online.

9.2.2. Examination admission will not be affected by attendance or otherwise, but will be given significant discretionary weight by the relevant tutors when a student's assignment and examination marks are assessed. Students' attendance at the workshops is strenuously advised. Students are urged to make use of this opportunity. Award writing has proved to be the Achilles heel of many Module 4 students, including those from a legal background. Do not assume that, because you have read judgments, you are qualified to write an arbitral award.

WORKSHOP	DATE
09:00-12:00	Saturday **10 April 2027**
09:00-12:00	Saturday **29 May 2027**
09:00-12:00	Saturday **24 July 2027**
09:00-12:00	Saturday **2 October 2027**

NOTE: Students will **only** become eligible for election as **Fellow** after having attended at least one of the Award Writing workshops and having passed the examination.

9.2.3. The four workshops will each be presented over the course of a half-day on a Saturday. They will each include a preliminary arbitration meeting, a challenge to the arbitrator, statements of claim and defence, an arbitral evidence hearing and a practical demonstration of the writing of an arbitral award based on the evidence presented at the hearing.

10. ASSESSMENT

10.1. Assignment Year Mark

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

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

10.2. Exam

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

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Module 3: Advanced Law of Contract and Delict

10.2.1. Students undertaking Module 3 must obtain a minimum of 50% for the examination.

Module 4: Law and Practice of Arbitration, International Arbitration, Evidence and Award Writing

10.2.2. In order to pass the examinatiion for Module 4, a student must obtain a minimum of 50% for Paper 1 (Award Writing) and 50% for Paper 2 (Law and Practice of Arbitration, International Arbitration and Evidence).

10.2.3. In the event that a student obtains less than 50% for either Papers 1 or 2, he/she will fail the exam.

10.2.4. In order to complete the course, the student will then have to redo the relevant module the following year.

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

10.3. Previous Examination Papers

No previous examination papers are available for either Modules 3 or 4.

10.4. Final Year Mark

10.4.1. The Final Year Mark for students who pass the exam will be made up as follows:

(20% of Assignment Year Mark) + (80% of the Examination Mark).

10.4.2. Students who (a) pass the exam and obtain a Final Year Mark of at least 50% for each sub-module, and (b) attend the compulsory workshop, will receive an appropriate electronic certificate.

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

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

10.5. Admission to Fellowship Course

10.5.1. Students must ensure that they are thoroughly familiar with the requirements for admission to the **Fellowship Course** (Modules 3 and 4). These requirements are contained in paragraph 10.5 of the Certificate Course Information Booklet which is available on the Association's **website**.

NOTE: Refer to paragraph 2.6 [*Credit Validity – Fellowship Course*].

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11. EXAMINATIONS

Exams 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.

11.1. Examination Admission

Students are required to submit all assignments and to obtain a minimum of 40% for each assignment in order to be admitted to write the exam.

11.2. Written Examination Dates and Times

11.2.1. Students will only be permitted to write an examination if they have qualified to do so.

11.2.2. Examinations will be held on the following dates:

Module 3: Advanced Law of Contract and Delict

- Monday **1 November 2027** 09:00-13:00.

11.2.3. This is a **closed book** examination.

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

11.2.4. Paper 1: Award Writing [Part M4-A]:

- Monday **8 November 2027** 09:00-14:00;

11.2.5. Paper 2: Theory [Part M4-B]:

- Monday **15 November 2027** 09:00-14:00

11.2.6. Both papers 1 and 2 will be **open book** examinations.

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

11.3. Format

11.3.1. The papers will consist of a number of essay-type questions designed to test your knowledge and understanding of the subject. The emphasis will be more on understanding than knowledge, as we will be concerned particularly to establish whether or not you are able to apply what you have learnt in your studies. Thus, while some of the questions will relate directly to material in your course notes and textbooks, most of the questions will ask you to apply it to particular practical situations, the principles and techniques that you have

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learnt.

11.3.2. The **Module 3** examinations are **closed book** examinations and students will **NOT** be allowed to bring any course material or the like into the examination room/platform.

11.3.3. The **Module 4** examinations will be **open book** examinations and you **WILL** be permitted to take books, notes, etc., into the examination room/platform with you. Bear in mind, however, that time will be limited and you will be unlikely to have sufficient time to consult more than a few of the most important sources. The purpose of the open book format is so that students can refresh their memory quickly on points of detail.

11.4. Examination Technique

11.4.1. Please read the questions carefully. While it will not be our policy to set 'trick' questions, a shade of meaning may make an essential difference to the answer to the question. Be sure that you understand exactly what the examiner is asking before you start to answer the question.

11.4.2. The reasons for your answers will be at least as important as the answers themselves. Sometimes it will not be very difficult to guess at 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. 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.

11.4.3. From the number of marks allotted to the various questions, gauge the amount of time that you will need to spend on each question, and hence the likely length of each answer. If a considerable number of marks have been allocated 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, please do not go on writing after you have satisfactorily finished answering the question. 'Padding' will not earn you extra marks and may serve only to alienate the marker, who will have a considerable number of scripts to read through. A short, concise, clearly thought out and well expressed answer will earn more marks than a lengthy, woolly, rambling exposition.

11.5. Preparing for the Examination

Remember that we will generally be seeking to evaluate your understanding of principles, rather than your ability to remember strings of facts. Read with understanding, and do not confine your reading to the course notes and prescribed textbooks but consult the various recommended textbooks 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 but reference to one or two of the best known of these may impress the examiner and earn a bonus mark

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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). For Module 4 you are nevertheless expected to have a thorough knowledge and understanding of the **Arbitration Act 42 of 1965**, the **International Arbitration Act 15 of 2017** and the **Association's Rules for the Conduct of Arbitrations**.

11.6. Examination Registration

You will be required to register for these examinations and the necessary forms will be sent to you later in the year, together with details of the platform, times, etc. The cost of writing the exams is included in your course fee.

11.7. Examination Marks - Minimum

Refer to paragraph 9.2 [*Exam*] above.

11.8. Examination and Final Results

11.8.1. Every effort is made to finalise written examination results as quickly as possible. Students are then immediately informed by e-mail.

11.8.2. Exam results will not be released before February 2028.

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

11.9.1. Students are reminded to take note of and diarise the dates for assignments, workshops and exams as these must be adhered to. No exemptions will be considered.

11.9.2. Students who are undertaking courses, studies etc. other than those offered by the Association must ensure that they take note of the dates for assignments and exams. No clash of dates will be considered as exceptional circumstances or sufficient grounds for any exemption sought by a student.

12. STUDY GROUPS

12.1.1. 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 submiting assignments. Identical/substantially similar answers are not acceptable, and your tutors will refuse to mark such assignment. Working together includes a discussion of the assignment questions but does not mean copying another student's answer to any part of the assignment.

12.1.2. The Association is not involved in any manner in the formation or administration of study groups and will under no circumstances provide the names and/or contact details of

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students for the purpose of forming study groups or for whatever purpose. The formation and administration of study groups shall at all times remain amongst students.[5]

13. PROBLEMS AND QUERIES

13.1.1. An inevitable consequence of distance learning 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.

13.1.2. It must be remembered that the tutors are all actively engaged in their respective professions and that their time is strictly limited.

13.1.3. 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 Miss Mandisa Mthembu, the Course Manager (**coursecoordinator@arbitrators.co.za**). The Course Manager will direct your correspondence to one of the tutors to deal with.

13.1.4. The compulsory workshops provide an ideal opportunity for students to raise queries and problems with tutors.

14. PLAGIARISM

14.1. 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.

14.2. Students must be alert to the use of secondary material and the correct method which must be used in presenting and acknowledging references.

14.3. 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.

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

14.5. 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;
- Presenting the work of a current or former student of the Association as one's own;
- Paraphrasing material (i.e. change the wording slightly) or use a line of argument without acknowledging its source.

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[5] The Association respects the privacy of students and is precluded under the **POPI Act 4 of 2013** from distributing any names or contact details of students enrolled on a course to other students.

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14.6. Students normally complain that they cannot rewrite the study material in their own words. Unfortunately, you need to master this technique since you will not have your study material on hand during particular examinations. The following is a simple guide as to how this problem can be addressed:

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

14.7. Students can obtain assistance in correctly acknowledging authority from the **PULP Publication Style Guidelines**. referred to in paragraph 7.6 [*Citing Sources*] above

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

15. COPYRIGHT

15.1. 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. This prohibition includes, without limitation, the uploading of such material or any part of it onto any third party's website, computer or any other electronic platform.

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

15.3. Members, Fellows, and students of the Association are not permitted to reproduce the Association's name or logo or any part thereof on any documentation or for purposes of submission of any assignments, without the prior written permission of the Association.

15.4. 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.

16. CODE OF CONDUCT

Students are subject to the Association's **Code of Ethics** and are expected to interact with staff of the

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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.

17. 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**.

Fellow and **Associate Members** are not permitted to hold themselves out as **court-annexed mediators** endorsed by the Association until such time as they have attained a court-annexed **Certificate of Competency** from the Association.

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

TUTORS COMMITTEE
ASSOCIATION OF ARBITRATORS (SOUTHERN AFRICA) NPC

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