



RHODES UNIVERSITY
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Course Outline – Arbitration

Year: 2011
Lecturer: Mr GW Barker

1. INTRODUCTION

1.1 Overview

Arbitration is a semester credit towards the LLB degree. The course consists of a theoretical and a practical component. It is a skills-orientated course, designed specifically not only to expose students to the practical skills required during arbitration but also to provide a theoretical context for such skills. The course will be based heavily on labour arbitration in South Africa which is less formal than other forms of arbitration that sometimes amount to privatised litigation which is as formal as High Court procedure.

1.2 Credit value

10 credits

1.3 Assumptions of Prior Learning

- An ability to communicate coherently in English
- An ability to organise and manage their own studies
- Communication skills.

2 OUTCOMES

2.1 Critical Outcomes

- Identify and solve problems.
- Work in a team
- Organise and manage themselves
- Collect, analyse and evaluate information
- Communicate effectively
- Recognise problem solving contexts

2.1 Intended Specific Outcomes

At the end of the course, students will be able to achieve the following outcomes:

- Be able to demonstrate the skills of an arbitrator chairing a hearing
- Be able to write an award
- Be able to question witnesses effectively in the giving their evidence
- Be able to demonstrate an adequate knowledge of the law governing arbitration

3 Teaching and learning methods

For the first half of the course students will do selected readings prior to each class meeting. These readings will be discussed during the lectures. In addition tasks related to the readings will be undertaken in groups and individually.

The second half of the course will consist of arbitration exercises.

Students are required to keep journals in which they analyse and reflect on the arbitration process. These must be submitted on the first day of swot week.

4 Assessment

The class component of this course counts 50%. This will be assessed on the basis of one class test counting 30%, a journal counting 20% and an exam counting 50%. The exam will be in the form of you being given various statements and you being required to write an award.

ASSESSMENT CRITERIA

Specific Outcomes Students will be able to:	Assessment Criteria Students Must:
<p>The ability to analyse a conflict situation and to identify that arbitration is the appropriate resolution strategy in a particular context.</p>	<p>Students must demonstrate that, if given a set of facts in a conflict situation, they can identify the natures of a dispute and the path that the conflict has followed and then indicate, with reasons, whether arbitration is the most appropriate next stage.</p>
<p>Be able to chair a hearing effectively.</p>	<p>Students must be able to identify core issues from the evidence; probe and clarify issues; apply the law of evidence</p>
<p>Be able to write an award</p>	<p>Students must be able to summarise the evidence, determine with reasons what evidence is relevant and reliable and what evidence is not relevant or not reliable; write an award</p>
<p>Be able to question witnesses effectively in the giving of their evidence, both in evidence in chief and in cross-examination</p>	<p>Students must participate in arbitration exercises and ask relevant questions within the framework of accepted norms, for example not asking leading question in evidence in chief.</p>
<p>Be able to demonstrate an adequate knowledge of the law governing arbitration.</p>	<p>Students will be required to write a test covering the field of law covered in the course.</p>

Course Content

- 1 The nature of arbitration**
- 2 Referral to arbitration: the arbitration agreement and terms of reference**
- 3 Preparing for arbitration: pre-hearing meetings; preparation of opening statements and evidence; pleadings**
- 4 Conducting an arbitration hearing: venue and layout, procedural rules, settling the parties and explaining the procedures (arbitrator), opening statements (parties), identifying and narrowing the issues (arbitrator), presenting and testing of evidence (parties), conducting proceedings (arbitrator), closing address (parties) and closing the proceedings (arbitrator)**
- 5 Deciding the matter: writing an award – structure, style, tone, logic, determination, technicalities**
- 6 Deciding the matter: terms of reference, characterise the nature of the dispute, evaluating evidence, onus, credibility, probabilities, hearsay, circumstantial evidence, documents**
- 7 Deciding the matter: impartiality, ethics, fairness, consequences for the parties**

Class Meetings 8 – 13 Practical exercises