



MANDELA INSTITUTE

LABOUR DISPUTE RESOLUTION PRACTICE

Postgraduate Certificate Course

R48 000
INCLUDING VAT

4
COURSES

2
SEMESTERS

19 JANUARY TO 29 JUNE
AND
22 JUNE TO 30 NOVEMBER

UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG



WITS
SCHOOL OF LAW

Detail	Information
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The Mandela Institute at the School of Law, University of the Witwatersrand, Johannesburg, is offering the Labour Dispute Resolution Practice postgraduate certificate course in collaboration with the Commission for Conciliation, Mediation and Arbitration and the Labour Relations Practice Industry.

Description The aim of the **Labour Dispute Resolution Practice** certificate is to contribute to the transformation and capacity building in the labour dispute resolution sector by providing access at a higher postgraduate level to all individuals aspiring to become Commission for Conciliation Mediation and Arbitration (CCMA) Commissioners/Bargaining Council Panellists or those individuals wishing to enhance their industrial relations / dispute resolution skills, including trade unionists, industrial relations practitioners, managers and legal practitioners. The postgraduate certificate is focused on an advanced theoretical understanding of collective and individual Labour Law, and this includes a large component on the technical and practical application of the theory to practice. One-on-one coaching and a practical simulation model that is unique in its design developed over the last 6 years provide participants with practical skills and knowledge.

- Courses** Students who want to obtain the Labour Dispute Resolution Practice postgraduate certificate will have to complete the following four stand-alone certificate courses:
- Individual Labour Law Practice
 - Collective Labour Law Practice and Jurisdiction
 - Mediation and Conciliation
 - Labour Arbitration.

The above courses are delivered over a semester with 6 to 7 day block releases (42 to 49 hours), which are preceded by 2-3 weeks of preparatory work. After the contact sessions, students undertake a variety of formative assessments, practical exercises, observations of processes at the CCMA, and written assignments over two (2) months. All the semester work is concluded with final examinations at the end of the semester (May-June) and (November) each year. Students have the option to take two courses each semester to complete the programme or take individual courses per semester until all the four courses are completed. It is recommended that students take a maximum of two courses per semester.

- Course Delivery and Structure** The following pre-requisites are also applicable:
- Successful completion of the Individual Labour Law Practice postgraduate certificate course is a pre-requisite to enroll for the Collective Labour Law Practice and Jurisdiction, Mediation and Conciliation and Labour Arbitration courses.
 - Successful completion of the Individual Labour Law Practice and Collective Labour Law Practice and Jurisdiction course is a pre-requisite to enroll for the Mediation and Conciliation and Labour Arbitration courses.
 - Successful completion of the Individual Labour Law Practice, Collective Labour Law Practice and Jurisdiction and Mediation and Conciliation course is a pre-requisite to enroll for the Labour Arbitration course.

Each course is done over 300 hours of academic work. The postgraduate certificate is approved and accredited by the University of the Witwatersrand in accordance with the Short Course Policy and the powers delegated to the University by the Higher Education Quality Committee (HEQC) as a Public Higher Education Institution.

Cost The course fee is R12 000 per course. Total cost for the four courses is R48 000

Dates	Individual Labour Law Practice	Saturday 19 – Saturday 26 January (excluding Sunday)	Saturday 22 – Saturday 29 June (excluding Sunday)
	Collective Labour Law Practice & Jurisdiction	Monday 18 – Saturday 23 February	Monday 22 – Saturday 27 July
	Mediation & Conciliation	Monday 22 April – Saturday 27 April	Monday 16 – Saturday 21 September
	Labour Arbitration	Saturday 18 – Saturday 25 May (excluding Sunday)	Saturday 26 October – Saturday 02 November (excluding Sunday)

INDIVIDUAL LABOUR LAW PRACTICE

Description The **Individual Labour Law Practice** postgraduate certificate course examines individual Labour Law rights in South Africa. To this end it focuses on common law contractual rights, the Constitution of the Republic of South Africa, 1996 ('the Constitution') and statutory protection in terms of the Labour Relations Act 66 of 1995, the Basic Conditions of Employment Act 75 of 1997, the Employment Equity Act 55 of 1998, the Skills Development Act 97 of 1998 and the Occupational Health and Safety Act 85 of 1993. This course can be taken on its own or as part of the Labour Dispute Resolution practice certificate course.

Outcomes

At the end of the course students should be able to:

- Discuss the history of the struggle for individual Labour Law rights and its provisions in the Constitution
- Explain the various sources of Labour Law
- Define and discuss the scope of basic rights and duties arising from the Labour Relations Act
- Identify who an employee is
- Appraise and distinguish key provisions and rights arising from the Basic conditions of Employment Act and the Skills Development Act
- Appraise and distinguish the concept of employment equity and key provisions pertaining to affirmative action and unfair discrimination
- Assess and evaluate the meaning of dismissal and the procedural and substantive requirements that need to be satisfied when dismissing an employee for misconduct, incapacity or operational requirements
- Discuss, analyse and evaluate what an unfair labour practice is
- Discuss, analyse and evaluate what an automatically unfair dismissal is
- Distinguish between the relevant remedies that are available to an employee who has been unfairly dismissed, and
- Discuss, analyse and evaluate the dispute resolution process applicable in individual Labour Law disputes.

Content

The course consists of the following modules:

- Introduction to the systems and structures of Labour Law (including jurisdictional issues)
- Distinguishing between individual & collective Labour Law
- Individual Labour Law and the global context, individual Labour Law and the Constitution
- Sources of Labour Law
- The meaning of employee
- The labour broker relationship
- The meaning of dismissal, substantive and procedural fairness in unfair dismissal disputes
- Dismissals on the basis of misconduct, incapacity and operational requirements
- Automatic unfair dismissals
- Distinguishing between misconduct, incapacity and operational requirements (including remedies and procedure)
- Pre-dismissal arbitrations
- Unfair labour practices
- Dispute resolution processes in individual Labour Law disputes;
- Individual employment rights and obligations arising from the Basic Conditions of Employment Act
- Employment equity, affirmative action and unfair discrimination, and
- The Skills Development Act.

Assessment Research assignment and examination.

Certificate Criteria

The following certificates can be obtained:

- *Certificate of Competence*: To obtain a certificate of competence, students are required to attend and participate in 75% of the lectures and to complete the assessments as required in the course.
- Please note that a Certificate of Attendance is not available for this course.

Accreditation This postgraduate certificate course is accredited by the university in accordance with its statutory mandate. It does not lead to a qualification registered on the National Qualifications Framework. No credit may be granted towards the LLM degree or PgDip in Law.

Course Dates This is a block release course where participants attend daily lectures from 08:30 to 16:30 during the period 19 to 26 January 2019 **OR** 22 to 29 June 2019 (excluding the Sundays).

Venue Chalsty Teaching and Conference Centre, Oliver Schreiner School of Law, University of the Witwatersrand, Johannesburg, West Campus, Wits.

Cost R12 000 including VAT

COLLECTIVE LABOUR LAW PRACTICE AND JURISDICTION

Description The **Collective Labour Law Practice and Jurisdiction** postgraduate certificate course examines collective Labour Law rights and jurisdiction in South Africa. To this end it focuses on common law rights, the Constitution and statutory protection. The course further reflects on freedom of association and collective bargaining, Bargaining Councils, statutory councils, trade unions and employer organisations. Assess and evaluate rulings pertaining to subject matter jurisdiction, employment relationships, time violations and territorial jurisdiction. This course can be taken on its own or as part of the Labour Dispute Resolution practice certificate course.

Outcomes At the end of the course students should be able to:

- Define and discuss the meaning of collective bargaining
- Appraise and distinguish the role that collective bargaining plays in the Constitution and various other legislation
- Discuss and analyse the following: freedom of association, Bargaining Councils, statutory councils, organisational rights, union security arrangements, the right to strike and workplace forums
- Define jurisdiction and interpret the guidelines in conducting jurisdictional applications, and
- Assess and evaluate rulings pertaining to subject matter jurisdiction, employment relationships, time violations and territorial jurisdiction.

Content The course consists of the following modules:

- Collective Labour Law and the global context, collective Labour Law and the Constitution
- Sources of collective Labour Law
- Freedom of association and collective bargaining
- Jurisdiction (including guidelines for conducting jurisdiction applications and writing jurisdictional rulings)
- The CCMA, Bargaining Councils and statutory councils
- Trade unions and employer organisations
- Organisational rights
- Union security arrangements
- The right to strike
- Lock-outs
- Transfer of solvent and insolvent businesses
- Workplace forums
- Dispute resolution processes in collective Labour Law disputes
- Rulings pertaining to employment relationships. This includes the distinction between employees and independent contractors, dealing with labour brokers, outsourcing, franchise agreements, defining an employer in the context of section 197 of the Labour Relations Act, dealing with unlawful contracts (such as sex workers), undocumented migrants, and dealing with an insolvent employer, and
- Rulings pertaining to the time violations (including rules on referrals, service and the requirements for proof thereof and condonation).

Assessment Research assignment and examination.

Certificate Criteria The following certificates can be obtained:

- *Certificate of Competence*: To obtain a certificate of competence, students are required to attend and participate in 75% of the lectures and to complete the assessments as required in the course.
- Please note that a Certificate of Attendance is not available for this course.

Accreditation This postgraduate certificate course is accredited by the university in accordance with its statutory mandate. It does not lead to a qualification registered on the National Qualifications Framework. No credit may be granted towards the LLM degree or PgDip in Law.

Course Dates This is a block release course where participants attend daily lectures from 08:30 to 16:30 during the period 18 to 23 February 2019 **OR** 22 to 27 July 2019.

Venue Chalsty Teaching and Conference Centre, Oliver Schreiner School of Law, University of the Witwatersrand, Johannesburg, West Campus, Wits.

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MEDIATION AND CONCILIATION

Description The **Mediation and Conciliation** postgraduate certificate course examines alternative dispute resolution mechanisms with a particular focus on conciliation. Conciliation within various sectors is reflected on within a global context, the Constitution and relevant legislation. The course covers the most recent policy and jurisprudential developments in dispute resolution. The course concludes by affording students the opportunity to learn how conciliation works in practice through simulation exercises. This course can be taken on its own or as part of the Labour Dispute Resolution practice certificate course.

Outcomes

At the end of the course students should be able to:

- Discuss the different dispute resolution processes
- Define the conciliation processes
- Explain conciliation within the global context, the Constitution and the legislative framework
- Differentiate between rights verses interest disputes, and rights verses position
- Discuss, analyse and evaluate the principles of ethics involved in conciliation
- Conduct an effective conciliation process and draft settlement agreements, and
- Prepare the necessary reports and settlement agreements.

Content

The course consists of the following modules:

- Defining dispute resolution
- Defining conciliation and an overview of its various models
- Conciliation compared to facilitation, mediation, arbitration and litigation
- Conciliation within a global context
- Conciliation, the Constitution and access to justice
- Conciliation and the legislative framework
- Distinguishing between conflicts and disputes
- Rights verses interests disputes
- Interest verses positions (getting to 'yes' negotiation skills)
- Ethics in conciliation (conflicts of interest, confidentiality, mediator liability)
- Social justice
- Diversity and multiculturalism
- Conducting an effective conciliation process
- Closure of the process
- Drafting certificate and outcome reports
- Drafting settlement agreements, and
- Each participant will be individually coached in the role of conciliator through simulated exercises by an experienced CCMA commissioner.

Assessment Research assignment, examination and simulated assessments (practical and oral sessions that are assessed by experienced mediators/ arbitrators/ commissioners).

Certificate Criteria

The following certificates can be obtained:

- *Certificate of Competence*: To obtain a certificate of competence, students are required to attend and participate in 75% of the lectures and to complete the assessments as required in the course.
- Please note that a Certificate of Attendance is not available for this course.

Accreditation This postgraduate certificate course is accredited by the university in accordance with its statutory mandate. It does not lead to a qualification registered on the National Qualifications Framework. No credit may be granted towards the LLM degree or PgDip in Law.

Course Dates This is a block release course where participants attend daily lectures from 08:30 to 16:30 during the period 22 to 27 April 2019 **OR** 16 to 21 September 2019.

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Cost R12 000 including VAT

LABOUR ARBITRATION

Description The **Labour Arbitration** postgraduate certificate course examines arbitration as a form of alternative dispute resolution. Arbitration within various sectors is reflected on within a global context, the Constitution and the legislative framework. The course covers the most recent policy and jurisprudential developments in arbitration proceedings. The course concludes by affording students the opportunity to learn how arbitrations works in practice through simulation exercises. This course can be taken on its own or as part of the Labour Dispute Resolution practice certificate course.

Outcomes

At the end of the course students should be able to:

- Discuss the arbitration process
- Define the scope of the arbitrator's Code of Conduct and fairness in the arbitration process
- Explain arbitration within different contexts including the global context, the Constitution and the legislative framework
- Appraise and distinguish between several issues in arbitration, including jurisdictional matters and when legal representation is permissible
- Conduct an effective arbitration process
- Draft an arbitration award, and
- Prepare the relevant rulings.

Content

The course consists of the following modules:

- Defining arbitration
- Arbitration compared to conciliation and litigation
- Arbitration within the global context
- Arbitration, access to justice and the Constitution
- Arbitration within the context of the Labour Relations Act
- Ethics in arbitration, including the arbitrator's Code of Conduct and fairness in the arbitration process
- Preliminary issues at arbitration, including determining jurisdiction to arbitrate and whether legal representation is permissible, an understanding on whether to postpone or dismiss an arbitration, and processes and factors to take into account when making such a decision
- Conducting an arbitration process, including the introduction, narrowing the issues, presenting of evidence, the laws of evidence, arguments in closing

statement

- Default arbitration, including when and how to conduct these arbitrations and how to write a default arbitration award
- Each participant will be individually coached in the role of arbitrator through a simulated arbitration process by an experienced CCMA commissioner
- Skills necessary in drafting an award, elements of an award, the use of language, identifying facts in dispute, applying the law to the facts and linking the facts and application of the law to the findings. We provide a unique module on legal writing skills by an experienced legal writing academic
- Certifying arbitration awards
- Drafting condonation rulings
- Drafting rescission rulings
- Variation and rescission, and
- Reviews: Drafting an explanatory affidavit in the review process.

Assessment Research assignment, examination and simulated assessments (practical and oral sessions that are assessed by experienced mediators/ arbitrators/ commissioners).

Certificate Criteria

The following certificates can be obtained:

- *Certificate of Competence*: To obtain a certificate of competence, students are required to attend and participate in 75% of the lectures and to complete the assessments as required in the course.
- Please note that a Certificate of Attendance is not available for this course.

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