LW6405: ARBITRATION LAW

Effective Term
Semester B 2024/25

Part I Course Overview

Course Title
Arbitration Law

Subject Code
LW - Law

Course Number
6405

Academic Unit
School of Law (FL)

College/School
School of Law (FL)

Course Duration
One Semester

Credit Units
3

Level
P5, P6 - Postgraduate Degree

Medium of Instruction
English

Medium of Assessment
English

Prerequisites
Nil

Precursors
Nil

Equivalent Courses
Nil

Exclusive Courses
Nil

Part II Course Details

Abstract

This course aims to give the student a comprehensive understanding of basic arbitration law and the factors and circumstances which are considered in utilizing the arbitration process. Particular emphasis will be given to the arbitration law of Hong Kong.

The course will further innovate a student's ability to understand the fundamental concepts with the ultimate goal of discovering how Arbitration Law is applied into actual practice.

Course Intended Learning Outcomes (CILOs)

	CILOs	Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	explain the origins, practices, principles and theory of arbitration and to discover how effective the Law of Arbitration is used in the context of actual scenarios		x	x	x
2	identify, analyse, evaluate and critically comment on the legal issues and procedural issues of arbitration and where possible create/ innovate workable solutions that apply such legal issues and procedures		x	x	x
3	creatively apply their knowledge and skills in further research and/or professional development in arbitration		x	x	x

A1: Attitude
Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability
Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments
Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

	LTAs	Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures and seminars	Lectures explain the principles and theory of arbitration to students. In some sessions, guest speakers will be invited to share insights from arbitral practice. Some classes will include exercise sessions which allow students to discuss and deepen their understanding of the arbitration law and develop their ability to identify, analyse, evaluate and critically comment on the legal issues and procedural issues of arbitration and thereby to creatively apply their knowledge and skills in further research and/or professional development in arbitration.	1, 2, 3	3

Assessment Tasks / Activities (ATs)

	ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Coursework (group essay)	1, 2, 3	30	See below The use of Generative AI tools is not allowed.
2	Participation	1, 2, 3	10	See below The use of Generative AI tools is not allowed.

Continuous Assessment (%)

40

Examination (%)

60

Examination Duration (Hours)

2.5

Additional Information for ATs

Examination

Open book examination. See below. The use of Generative AI tools is not allowed.

Remarks:

Applicable to students admitted before Semester A 2022/23 or in Semester A 2024/25 & thereafter

(i) A student must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass a course.

Applicable to students admitted in Semester A 2022/23 to Summer Term 2024

(i) A student must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass a course.

The HKSAR Government's Continuing Education Fund (CEF) recognizes the LLMArbDR individual courses (i.e. LW5303, LW6401, LW6405, LW6406, LW6407). The minimum attendance requirement for all CEF courses is 70%. For the purpose of claiming reimbursement of CEF course fee or the professional recognition, please note that it is the students' own responsibility to attend every class and examination during the teaching and examination periods.

Assessment Rubrics (AR)

Assessment Task

Coursework (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of ability to identify critical issues, presentation of ideas/solutions based on the course material and research on the subject.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Application of knowledge learnt to specific problems with logical thinking and presentation.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Coursework (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of ability to identify issues, current trends and practices.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Application of knowledge learnt to specific problems with logical thinking and presentation.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

Arbitration law. Process of arbitration. Hong Kong and Mainland China.

1.1. Detailed Syllabus (the order and content may be subject to changes)

W1: Introduction to arbitration
- Definition, history, types of arbitration
- Key features of arbitration

- Pros and cons of arbitration
- Key arbitration law and rules
- Key arbitration institutions and centres
- Arbitration contrast with other forms of ADR or valuation/adjustment

W2: Arbitration Ordinance
- Content and features of Arbitration Ordinance CAP 341and Arbitration Ordinance CAP 609
- Arbitration Ordinance CAP 609 contrasts with UNCITRAL Model Law
- PRC Arbitration Law
- Mutual facilitation between HK and mainland on arbitration

W3: Agreement to arbitrate
- Importance, scope, form and elements of arbitration agreements
- Appliable laws
- The principle of separability
- Reasons and examples of ambiguous arbitration agreement
- Construction/interpretation of arbitration agreement
- Arbitrability

W4: Appointment of arbitrators
- Capacity, availability and qualifications imposed by agreement and/or law
- The appointment of an arbitrator in different tribunals of a sole, two, three or more
- Power to appoint-parties, appointing bodies, statutory appointing bodies
- Umpire
- Resignation and replacement of an arbitrator; death of an arbitrator

W5 & W6: Rights, duties and powers of an arbitrator
- Basic duties of an arbitrator
- Arbitrator’s rights to fees/remunerations
- Immunity of arbitrators
- Source of arbitrators’ powers and widening of powers
- Control of arbitrators’ powers by courts

W7 & W8: Commencement and interlocutory proceedings
- Commencement of arbitration and time bar/limitations
- Typical interlocutory proceedings
- Interim measures: security for costs; security for claim; injunctions; preservation of evidence; sale of goods/property; etc.
- Concurrent powers of arbitrator and court

W9: Evidence & Hearing
- Relevance of rules of evidence
- Types of evidence
- Privilege document or information
- Hearings: preparation and proceedings

W10: Costs & Interest
- Types of arbitration costs
- Assessment and determination of recoverable costs
- Interest: period, applicable rate, simple or compound

W11: Award & Enforcement
- Form, essential requirements, and types of awards
- Working & publication of an award
- Enforcement of awards
- Remedies and challenges of an award

W12: Wrap up & review

Reading List

Compulsory Readings

	Title
1	Arbitration in Hong Kong – A Practical Guide (by Sweet & Maxwell)
2	Hong Kong Arbitration – A User's Guide (by Dr. Michael Moser & Teresa Cheng, SC)
3	The Arbitration Act 1996 - A Commentary (by Bruce Harris, Rowan Planterose & Jonathan Tecks, 3rd Edition)

Additional Readings

	Title
1	Russell on Arbitration, 24ed (by Judith Gill & Francis Russell)
2	International Commercial Arbitration: Three Volume Set (by Gary B. Born)
3	Kluwer Arbitration Blog https://arbitrationblog.kluwerarbitration.com/
4	Halsbury's Law of Hong Kong
5	www.hkiac.org
6	www.adr.org
7	www.cedr.co.uk
8	www.jamsadr.com
9	www.odr.info
10	www.arbitrators.org
11	www.hklawsoc.org.hk
12	www.hkba.org