

LAWS6103: International Arbitration

Online

Semester 2 - 2023



THE UNIVERSITY OF
NEWCASTLE
AUSTRALIA

OVERVIEW

Course Description

This course provides students with an in-depth knowledge and critical understanding of the fundamentals of the practice of international commercial arbitration, a self-contained international legal system based upon the will of the contracting parties and drawn together by the New York Convention and relevant National laws. The course is a combination of legal theory, practical and procedural analysis and will appeal to those students who wish to study law in an international setting. This course is comparative and will expose students to a range of international commercial arbitration laws and institutional rules, including in Australia, England, Switzerland, France, Singapore, and Hong Kong. Students will learn how to draft arbitration agreements, commence and run arbitration proceedings, as well as enforce and challenge arbitral awards under the 1958 New York Convention and local National and State laws. Students will also learn about specialised forms of international arbitration, including investor-state arbitration.

Requisites

This course is only available to students enrolled in the programs of:

Master of Laws [12333]

Juris Doctor/Graduate Diploma in Legal Practice (JD) [12334]

Bachelor of Social Science / Bachelor of Laws (Honours) [12341]

Bachelor of Communication / Bachelor of Laws (Honours) [12342]

Bachelor of Laws (Honours) / Diploma of Legal Practice [12347]

Bachelor of Laws (Honours) [12348]

Bachelor of Business/Bachelor of Laws (Honours) [40036]

Bachelor of Commerce/Bachelor of Laws (Honours) [40037]

Bachelor of Innovation and Entrepreneurship/Bachelor of Laws (Honours) [40129]

Master of Environmental Law [40141]

Bachelor of Arts/Bachelor of Laws (Honours) [40150]

Master of Dispute Resolution [40193]

Bachelor of Criminology/Bachelor of Laws (Honours) [40272]

Bachelor of Coastal and Marine Science/Bachelor of Laws (Honours) [40279]

Bachelor of Biomedical Science/Bachelor of Laws (Honours) [40280]

Bachelor of Psychological Science/Bachelor of Laws (Honours) [40290].

Assumed Knowledge

LAWS6000 Legal System and Method I, and LAWS6001 Legal System and Method II

LAWS6002A Torts Part A, or LAWS6120 Torts I

LAWS6002B Torts Part B, or LAWS6121 Torts II

COURSE OUTLINE

www.newcastle.edu.au

CRICOS Provider 00109J

LAWS6003A & LAWS6003B Criminal Law & Procedure Part A & B, or LAWS6130 Criminal Law & Procedure
LAWS6004A Contracts Part A, or LAWS6140 Contracts I
LAWS6004B Contracts Part B, or LAWS6141 Contracts II
LAWS6010 Company Law

Contact Hours

Online

Weekly two-hour online seminar (Thursdays 1-3pm)
Weekly one-hour online work
36 hour(s) per Term Full Term

Unit Weighting

10

Workload

Students are required to spend on average 120-140 hours of effort (contact and non-contact) including assessments per 10 unit course.

Attendance requirement

There is a compulsory attendance requirement in this course. Attendance at all classes (seminars and workshops) will be monitored and records maintained by the Course Coordinator. In order to satisfy the "Attendance" requirement, students must be present at a minimum of 80% of scheduled classes as spelled out in the course outline, unless they are able to demonstrate that their absence falls within the Adverse Circumstances policy. Unless this requirement is met, despite marks awarded in other assessment items, the student will receive a zero mark and an CF grade for the course.

Please note that meeting the attendance rule each week requires meaningful attendance for the full one hour and fifty minutes of each class. Partial attendance will not meet the attendance requirement for a given class unless prior approval has been given by the Course Coordinator or Lecturer. (To be clear, simply being present for purposes of the roll call does not on its own satisfy the attendance requirement. As such, even if you have been present for the roll call, if you leave early without permission you are agreeing that your attendance will not count for that week.)

Note also that if you miss more than 2 classes for reasons that fall within the University's adverse circumstances policy you may be required to complete additional assessment items to ensure that you have completed the required volume of learning for this course.

CONTACTS

Course Coordinator

Online

Dr Dalma R Demeter
Dalma.Demeter@newcastle.edu.au
Consultation: online by appointment

Teaching Staff

Dr Dalma R Demeter

School Office

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Callaghan
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+61 2 4921 5052

SYLLABUS

Course Content

The course will analyse relevant legal instruments, including:

- Arbitration Rules such as UNCITRAL, ICC, LCIA, ACICA, CIETEC, SIAC and HKIAC.
- National arbitration laws including Australia, England, Switzerland, France, Singapore, and Hong Kong.
- The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral

Awards.

- The 1985 UNCITRAL Model Law on International Commercial Arbitration. It will explain the role of specialised forms of international arbitration, including investor-state arbitration.
- It will provide knowledge of the principles of international trade and commerce as they are configured in commercial arbitration disputes.

Course Learning Outcomes

On successful completion of this course, students will be able to:

1. Demonstrate and apply advanced, specialised knowledge of legal principles in the regulation and infrastructure of international arbitration;
2. Demonstrate and apply advanced, specialised knowledge of the procedural and conceptual issues that may arise in international arbitration;
3. Apply acquired legal knowledge in solving practical problem cases in an international commercial arbitration context;
4. Evaluate key policy and practice surrounding investor-state arbitration.
5. Acquire a knowledge of the principles of international trade and commerce as they are configured in commercial arbitration disputes.
6. Acquire a knowledge of the growing corpus of 'soft law' in international commercial arbitration including the IBA rules on the Taking of Evidence.

Skills Focus

This course will focus on assisting students to develop the following skills:

- Problem-solving
- Critical legal analysis
- Writing for a legal audience
- International awareness

Course Materials

Prescribed Textbook: Nigel Blackaby, Constantine Partasides, Alan Redfern, *Redfern and Hunter on International Arbitration. Student Edition* (Oxford University Press, 7th edition, 2022)

Additional reading materials include the following (and will be available on course site):

1. Essential materials: New York Convention on Recognition and Enforcement of Foreign Arbitral Awards; UNCITRAL Model Law on International Commercial Arbitration;
2. Selected arbitration legislations: International Arbitration Act 1974 (Cth); Commercial Arbitration Act 2010 (NSW);
3. Selected institutional arbitration rules: ACICA Rules; ICC Rules; SIAC Rules; HKIAC Rules; LCIA Rules; Swiss Rules;
4. Other materials: Scholarly articles; selected instruments of the International Bar Association (IBA), of the International Council for Commercial Arbitration (ICCA), and the Chartered Institute of Arbitrators (CI Arb).

Recommended reading: Jones, D and Walker, J *Commercial Arbitration in Australia Under the Model Law* (Thomson Reuters, 3rd edition, 2022)

ASSESSMENTS

This course has 4 assessments. Each assessment is described in more detail in the sections below.

	Assessment Name	Due Date	Involvement	Weighting	Learning Outcomes
1	Class Participation	Ongoing: Weeks 1-12	Individual	20%	1, 2, 3, 4, 5, 6
2	Research Paper 1: Client Advice Letter	Week 3: 3 August 2023	Individual	20%	1, 2, 3, 5, 6
3	Research Paper 2: Legal Analysis Internal Memo	Week 5: 17 August 2023	Individual	20%	1, 2, 3, 5, 6
3	Time Restricted Take-Home Exam: Video Recording of Problem Question Analysis	Week 13: 31 October 2023	Individual	40%	1, 2, 3, 5, 6

Late Submissions

The mark for an assessment item submitted after the designated time on the due date, without an approved extension of time, will be reduced by 10% of the possible maximum mark for that assessment item for each day or part day that the assessment item is late. Note: this applies equally to week and weekend days.

Moderation

To ensure that grades are fair both within and between courses and cohorts, Newcastle Law School has a rigorous policy of moderating and reviewing assessment. The School Assessment Board (SAB) reviews all final grades before they are released to students, and the SAB process may result in the overall marks of a class being moved up or down by a specific amount, thus impacting individual marks. This is consistent with grading practices in other Law Schools across the country and important to ensure the integrity of assessment. This means that the final grade you are awarded may not be the sum of marks you have received in all assessments.

Assessment 1 - Class Participation

Assessment Type	Participation
Description	Actively engaging in class by asking and answering questions and contributing to the intellectual environment in a respectful manner, and/or contributing to the weekly topic analysis through the online discussion forums.
Weighting	20%
Due Date	Throughout the course.
Submission Method	Hand raising in live seminars or online contribution to discussion boards.
Assessment Criteria	Rubric available on the unit Canvas site.
Return Method	Through Canvas.
Feedback Provided	In class or through online consultation.

Assessment 2 - Research Paper 1

Assessment Type	Written Assignment
Description	Research-supported client advice letter based on an individualised factual scenario.
Weighting	20%
Due Date	Instructions and scenario released on 27 July; submission due on 3 August.
Submission Method	Through Canvas.
Assessment Criteria	Rubric available on the unit Canvas site.
Return Method	Through Canvas.
Feedback Provided	Through Canvas

Assessment 3 - Research Paper 2

Assessment Type	Written Assignment
Description	Research-supported critical analysis of a legal issue based on an individualised factual scenario, in the form of an internal memo.
Weighting	20%
Due Date	Instructions and scenario released on 7 August; submission due on 17 August.
Submission Method	Through Canvas.
Assessment Criteria	Rubric available on the unit Canvas site.
Return Method	Through Canvas.
Feedback Provided	Through Canvas

Assessment 4 – Take-Home Exam

Assessment Type	Recorded Oral Presentation.
Description	Recorded video presentation of a legal argument on an issue arising from an individualised factual scenario.
Weighting	40%
Due Date	Instructions available between 27-31 October, submission due in 28 hours from opening the assessment.
Submission Method	Through Canvas.
Assessment Criteria	Rubric available on the unit Canvas site.
Return Method	Through Canvas.
Feedback Provided	Through Canvas.

ADDITIONAL INFORMATION

Grading Scheme

This course is graded as follows:

Range of Marks	Grade	Description
85-100	High Distinction (HD)	Outstanding standard indicating comprehensive knowledge and understanding of the relevant materials; demonstration of an outstanding level of academic achievement; mastery of skills*; and achievement of all assessment objectives.
75-84	Distinction (D)	Excellent standard indicating a very high level of knowledge and understanding of the relevant materials; demonstration of a very high level of academic ability; sound development of skills*; and achievement of all assessment objectives.
65-74	Credit (C)	Good standard indicating a high level of knowledge and understanding of the relevant materials; demonstration of a high level of academic achievement; reasonable development of skills*; and achievement of all learning outcomes.
50-64	Pass (P)	Satisfactory standard indicating an adequate knowledge and understanding of the relevant materials; demonstration of an adequate level of academic achievement; satisfactory development of skills*; and achievement of all learning outcomes.
0-49	Fail (FF)	Failure to satisfactorily achieve learning outcomes. If all compulsory course components are not completed the mark will be zero. A fail grade may also be awarded following disciplinary action.

*Skills are those identified for the purposes of assessment task(s).

Communication Methods	Communication methods used in this course include: <ul style="list-style-type: none">• Announcements are made through Canvas.• Collective communication is available during class time.• Individual communication may be made via email - students must use their UoN student email in all email communication! – or in student consultations booked in advance.
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Course Evaluation	Each year feedback is sought from students and other stakeholders about the courses offered in the University for the purposes of identifying areas of excellence and potential
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improvement.

Oral Interviews (Vivas)	As part of the evaluation process of any assessment item in this course an oral examination (viva) may be conducted. The purpose of the oral examination is to verify the authorship of the material submitted in response to the assessment task. The oral examination will be conducted in accordance with the principles set out in the Oral Examination (viva) Procedure . In cases where the oral examination reveals the assessment item may not be the student's own work the case will be dealt with under the Student Conduct Rule .
Academic Misconduct	All students are required to meet the academic integrity standards of the University. These standards reinforce the importance of integrity and honesty in an academic environment. Academic Integrity policies apply to all students of the University in all modes of study and in all locations. For the Student Academic Integrity Policy, refer to https://policies.newcastle.edu.au/document/view-current.php?id=35 .
Adverse Circumstances	<p>The University acknowledges the right of students to seek consideration for the impact of allowable adverse circumstances that may affect their performance in assessment item(s). Applications for special consideration due to adverse circumstances will be made using the online Adverse Circumstances system where:</p> <ol style="list-style-type: none">1. the assessment item is a major assessment item; or2. the assessment item is a minor assessment item and the Course Co-ordinator has specified in the Course Outline that students may apply the online Adverse Circumstances system;3. you are requesting a change of placement; or4. the course has a compulsory attendance requirement. <p>Before applying you must refer to the Adverse Circumstance Affecting Assessment Items Procedure available at: https://policies.newcastle.edu.au/document/view-current.php?id=236</p>
Important Policy Information	<p>The Help button in the Canvas Navigation menu contains helpful information for using the Learning Management System. Students should familiarise themselves with the policies and procedures at https://www.newcastle.edu.au/current-students/no-room-for/policies-and-procedures that support a safe and respectful environment at the University.</p>
Wellness Contacts	<p>There are a variety of pressures on law students, and being able to perform well academically under pressure, without excessive stress will contribute to enhanced outcomes in wellbeing and academic results. Reach out to support services and learn ways to maintain your mental health, deal with stress and common issues like perfectionism, procrastination and anxiety.</p> <p>To access UON support:</p> <p>https://www.newcastle.edu.au/current-students/support/personal</p> <p>Ph: 4921 6622 or email: counselling@newcastle.edu.au</p> <p>For support outside of office hours call the University Crisis Support Line on 1300 653 007 or for chat sms 0488 884 165.</p> <p>For immediate support contact Lifeline 24/7 on 13 14 11 or https://www.lifeline.org.au/</p>

This course outline was approved by the Head of School. No alteration of this course outline is permitted without Head of School approval. If a change is approved, students will be notified and an amended course outline will be provided in the same manner as the original.

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