



MANDELA INSTITUTE

LABOUR DISPUTE RESOLUTION PRACTICE

Postgraduate Certificate Course

R50 000 - R62 500
INCLUDING VAT

4 to 5
COURSES

2
SEMESTERS

16 JANUARY TO 24 APRIL
OR
24 JULY TO 30 OCTOBER

UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG



WITS
SCHOOL OF LAW

LABOUR DISPUTE RESOLUTION PRACTICE

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

Students that do not meet the entry requirements will be required to complete the bridging course:

- Foundations of Commercial Law Practice

Course Delivery and Structure 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 the bridging course (if needed) and all the four courses are completed. It is recommended that students take a maximum of two courses per semester.

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 500 per course. Total cost for the four courses is R50 000 and for the bridging course R12 500 (if needed).

Dates (excluding Sundays)	<i>Bridging Course:</i> Foundations of Commercial Law Practice (9 Saturday mornings during the period)	6 February – 10 April	4 September - 30 October
	Individual Labour Law Practice	16 – 23 January	24 - 31 July
	Collective Labour Law Practice & Jurisdiction	20 – 27 February	21 – 28 August
	Mediation & Conciliation	20 – 27 March	18 – 25 September
	Labour Arbitration	17 – 24 April	16 – 23 October

FOUNDATIONS OF COMMERCIAL LAW PRACTICE

Description	The Foundations of Commercial Law Practice aims to bridge the gap between participants' existing knowledge and courses in Labour Dispute Resolution Practice (LDRP) courses. It aims to equip students with critical thinking skills, legal reasoning skills, legal reading skills for legislation and case law, effective writing skills and legal problem solving skills. The course also aims to provide opportunities to interact, and to stimulate thinking on specific topics. This will collectively prepare participants for LDRP studies.
Outcomes	<p>At the end of the course students should be able to:</p> <ul style="list-style-type: none"> • Interpret (i) the meaning and purpose of law; (ii) the social contract; and (iii) the law in context and in relation to related concepts such as morals, religion, culture and justice. • Identify (i) primary and secondary sources of law; (ii) the hierarchy of the South African courts and the applicable rules of judicial precedent as a sources of law; (iii) the various branches of law. • Distinguish between (i) a criminal case and a civil case; (ii) substantive and procedural law; (iii) public and private law; (iv) foreign law and international law. • Clarify (i) the requirements for a valid contract; (ii) the forms of breach of contract and the legal remedies for a breach of contract; (iii) definition and requirements for a valid contract of sale; (iv) the definition and requirements for a valid contract of agency; (v) the definition and requirements for a valid contract of employment; and (vi) the common law duties of the respective parties in a valid contract of sale, agency and employment. • Outline the definition and elements of a delict insofar as they intersect with the law of contract and labour law.
Content	<p>The course consists of the following modules:</p> <ul style="list-style-type: none"> • Introduction to the SA legal system <ul style="list-style-type: none"> ◦ Legal concepts and terms ◦ The hierarchy of the sources of law ◦ The hierarchy of the courts and judicial precedent ◦ The branches of law (substantive and procedural, public and private, civil and criminal) • Requirements for a valid contract <ul style="list-style-type: none"> ◦ Contractual capacity ◦ Agreement ◦ Contracts without agreement ◦ Contractual intention • Principles of contract <ul style="list-style-type: none"> ◦ Overview of specific contracts ◦ The law of delict
Assessment	Continuously assessment (3 tests weighting 30%, 30% and 40%)
Certificate Criteria	<p>The following certificates can be obtained:</p> <ul style="list-style-type: none"> • <i>Certificate of Competence</i>: 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 PG Dip in Law or LLM degrees.
Course Dates	This is a block release course where participants attend Saturday lectures from 08:30 to 14:30 over 9 consecutive Saturday mornings during the period 6 February to 10 April 2021 OR 4 September to 30 October 2021.
Venue	Chalsty Teaching and Conference Centre, Oliver Schreiner School of Law, University of the Witwatersrand, Johannesburg, West Campus, Wits.
Cost	R12 500 including VAT
Covid-19 Arrangements	Courses will be delivered through online lecturing should lockdown regulations prevent contact classes. Students are required to have basic computer skills and stable internet connection.

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	<p>At the end of the course students should be able to:</p> <ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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	<p>The course consists of the following modules:</p> <ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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	<p>The following certificates can be obtained:</p> <ul style="list-style-type: none"> • <i>Certificate of Competence</i>: 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 PG Dip in Law or LLM degrees.	
Course Dates	This is a block release course where participants attend daily lectures from 08:30 to 16:30 during the period 16 to 23 January 2021 OR 24 to 31 July 2021 (excluding the Sundays).	
Venue	Chalsty Teaching and Conference Centre, Oliver Schreiner School of Law, University of the Witwatersrand, Johannesburg, West Campus, Wits.	
Cost	R12 500 including VAT	
Covid-19 Arrangements	Courses will be delivered through online lecturing should lockdown regulations prevent contact classes. Students are required to have basic computer skills and stable internet connection.	

COLLECTIVE LABOUR LAW PRACTICE AND JURISDICTION

Description	<p>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.</p>	
Outcomes	<p>At the end of the course students should be able to:</p> <ul style="list-style-type: none"> • 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	<p>The course consists of the following modules:</p> <ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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	<p>The following certificates can be obtained:</p> <ul style="list-style-type: none"> • <i>Certificate of Competence</i>: 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 PG Dip in Law or LLM degrees.	
Course Dates	This is a block release course where participants attend daily lectures from 08:30 to 16:30 during the period 20 to 27 February 2021 OR 21 to 28 August 2021.	
Venue	Chalsty Teaching and Conference Centre, Oliver Schreiner School of Law, University of the Witwatersrand, Johannesburg, West Campus, Wits.	
Cost	R12 500 including VAT	
Covid-19 Arrangements	Courses will be delivered through online lecturing should lockdown regulations prevent contact classes. Students are required to have basic computer skills and stable internet connection.	

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	<p>At the end of the course students should be able to:</p> <ul style="list-style-type: none"> • 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 versus interest disputes, and rights versus 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	<p>The course consists of the following modules:</p> <ul style="list-style-type: none"> • 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 versus interests disputes • Interest versus positions (getting to 'yes' negotiation skills) 	<ul style="list-style-type: none"> • 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	<p>The following certificates can be obtained:</p> <ul style="list-style-type: none"> • <i>Certificate of Competence</i>: 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 course is regarded as NQF Level 8 equivalent and may be credited, subject to university policies, towards the PG Dip in Law or LLM degree.	
Course Dates	This is a block release course where participants attend daily lectures from 08:30 to 16:30 during the period 20 to 27 March 2021 OR 18 to 25 September 2021.	
Venue	Chalsty Teaching and Conference Centre, Oliver Schreiner School of Law, University of the Witwatersrand, Johannesburg, West Campus, Wits.	
Cost	R12 500 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	<p>At the end of the course students should be able to:</p> <ul style="list-style-type: none"> • 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	<p>The course consists of the following modules:</p> <ul style="list-style-type: none"> • 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 	<p>statement</p> <ul style="list-style-type: none"> • 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	<p>The following certificates can be obtained:</p> <ul style="list-style-type: none"> • <i>Certificate of Competence</i>: 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 course is regarded as NQF Level 8 equivalent and may be credited, subject to university policies, towards the PG Dip in Law or LLM degree.	
Course Dates	This is a block release course where participants attend daily lectures from 08:30 to 16:30 during the period 17 to 24 April 2021 OR 16 to 23 October 2021 (excluding the Sundays).	
Venue	Chalsty Teaching and Conference Centre, Oliver Schreiner School of Law, University of the Witwatersrand, Johannesburg, West Campus, Wits.	
Cost	R12 500 including VAT	
Covid-19 Arrangements	Courses will be delivered through online lecturing should lockdown regulations prevent contact classes. Students are required to have basic computer skills and stable internet connection.	

Detail	Information
Entry Requirements	<ul style="list-style-type: none"> A relevant <i>Bachelor of Laws</i> or <i>Bachelor of Commerce in Law</i> or <i>Bachelor of Arts in Law</i> or equivalent qualification is a prerequisite for admission to the postgraduate certificate courses; OR Applicants with any other undergraduate qualifications must complete the bridging course <i>Introduction to Law for Non- Lawyers</i> or equivalent courses first as well as have relevant legal work experience in the specific legal field before they would be considered for other courses. <p>You will be required to submit a copy of your Bachelors Degree, academic record as well as a copy of your identity document or passport. NB: ONLY applicants with an LLB qualification may apply for credit for MI short courses towards the Postgraduate Diploma or LLM degrees. Kindly note that all foreign qualifications must be submitted with a SAQA Evaluation Letter.</p> <p>Applications for the <i>Labour Dispute Resolution Practice</i> courses and applications based on <i>other undergraduate qualifications and work experience</i> need to include the following documents with the completed application form:</p> <ul style="list-style-type: none"> A detailed motivation on why the applicant wants to enrol for the courses A detailed Curriculum Vitae highlighting Certified copies of Qualifications and Academic Records Certified copy of Identity Document or Passport.
How to Apply	<ul style="list-style-type: none"> Complete the Online Application Form on the website. Kindly ensure that you provide all the correct details on the online application form and should your employer be responsible for the payment please complete the relevant section before submitting, as invoices cannot be amended afterwards for employer details. Please also submit all supporting documents as stipulated in the entry requirements with application form.
Application Dates	<p>1st Semester courses: 5 September 2020 to 5 December 2020</p> <p>2nd Semester courses: 1 April 2021 to 30 June 2021</p> <p>No late applications will be accepted</p>
Payment of Fees	<ul style="list-style-type: none"> ALL fees must be paid <u>10 days before</u> the start of the semester course or the start of the block release course. Registration is conditional on payment of full tuition fees. The tuition fees are the responsibility of the individual attending the course. For sponsored students, the individual need to ensure that the sponsor or sponsor organisation have enough time to process the payment. After the payment has been made, please ensure that the proof of payment is send.
Cancellation of Courses	<ul style="list-style-type: none"> Cancellation by registrant less than 10 calendar days before the start of the semester/course will result in liability for full payment of the fees. Cancellation by registrant more than 30 calendar days before commencement of the semester/course will result in an administration fee of 15% of the total course fee. Cancellation by registrant after commencement of the semester/course will result in liability for the full amount and forfeiture of all fees paid. The Mandela Institute from the School of Law, University of the Witwatersrand reserves the right to postpone or cancel a course due to lack of demand. In the event of cancellation, or reasonable postponement time, all fees paid will be refunded to the person/entity that made the original payment. Cancellation of Registration can only be done on a Cancellation of Registration Form. Please e-mail us on Mandela.Institute@wits.ac.za to request a Cancellation of Registration Form.
Registration and Enquiries	<p>Senteni Nsibande E mandela.institute@wits.ac.za</p> <p>T +27 11 717 8435 W www.wits.ac.za/mandelainstitute/short-courses/</p>