

**City University of Hong Kong  
Course Syllabus**

**offered by School of Law  
with effect from Semester A in 2023 / 2024**

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**Part I Course Overview**

<b>Course Title:</b>	Arbitration Law
<b>Course Code:</b>	LW6405
<b>Course Duration:</b>	One Semester
<b>Credit Units:</b>	3
<b>Level:</b>	P6
<b>Medium of Instruction:</b>	English
<b>Medium of Assessment:</b>	English
<b>Prerequisites:</b> <i>(Course Code and Title)</i>	Nil
<b>Precursors:</b> <i>(Course Code and Title)</i>	Nil
<b>Equivalent Courses:</b> <i>(Course Code and Title)</i>	Nil
<b>Exclusive Courses:</b> <i>(Course Code and Title)</i>	Nil

## Part II Course Details

### 1. 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 and Mainland China.

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.

LW6405 Arbitration Law is a CI Arb recognised course. Students who have successfully completed this course achieving at least 55% of the coursework and examination marks can be exempted from the CI Arb Module.

### 2. Course Intended Learning Outcomes (CILOs)

(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)

No.	CILOs	Weighting (if applicable)	Discovery-enriched curriculum related learning outcomes (please tick where appropriate)		
			A1	A2	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	Nil	✓	✓	✓
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	Nil	✓	✓	✓
3.	creatively apply their knowledge and skills in further research and/or professional development in arbitration	Nil	✓	✓	✓
		100%			

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 self-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.*

### 3. Teaching and Learning Activities (TLAs)

(TLAs designed to facilitate students' achievement of the CILOs.)

TLA	Brief Description	CILO No.			Hours/week (if applicable)
		1	2	3	
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. Seminar sessions provide a forum for discussion and allow them to 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.	√	√	√	3

#### 4. Assessment Tasks/Activities (ATs)

(ATs are designed to assess how well the students achieve the CILOs.)

Assessment Tasks/Activities	CILO No.			Weighting	Remarks
	1	2	3		
Continuous Assessment: <u>40</u> %					
Coursework (essay)	√	√	√	40%	See below  The use of Generative AI tools is not allowed.
Examination: <u>60</u> % (duration: 3 hours)					
Open book examination	√	√	√	60%	See below  The use of Generative AI tools is not allowed.
				100%	

#### Remarks:

Applicable to students admitted in Semester A 2022/23 and thereafter

- (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.

Applicable to students admitted before Semester A 2022/23

- (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.

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 (i.e. CIArb, CPD), please note that it is the students' own responsibility to attend every class and examination during the teaching and examination periods.

## 5. Assessment Rubrics

(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)

Applicable to students admitted in Semester A 2022/23 and thereafter

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B)	Marginal (B-, C+, C)	Failure (F)
1. Coursework	Demonstration of ability to identify issues, current trends and practices.	High	Significant	Moderate	Inadequate
2. Examination	Application of knowledge learnt to specific problems with logical thinking and presentation.	High	Significant	Moderate	Inadequate

Applicable to students admitted before Semester A 2022/23

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
1. Coursework	Demonstration of ability to identify critical issues, presentation of ideas/solutions based on the course material and research on the subject.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.
2. Examination	Application of knowledge learnt to specific problems with logical thinking and presentation.	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter;	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions	Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.	Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

		evidence of extensive knowledge base.	issues; evidence of familiarity with literature.	to simple problems in the material.		
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### **Part III Other Information**

#### **1. Keyword Syllabus**

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

#### **1.1. Detailed Syllabus (May subject to changes)**

Week 1: Introduction to arbitration

- The definition, history, types of arbitration
- Key features of arbitration
- The pros and cons of arbitration.
- Key arbitration law and rules: Arbitration Ordinance (LHK Cap.609), UNCITRAL Model Law, New York Convention, the English Arbitration Act 1996, and UNCITRAL Arbitration Rule; etc.
- Key arbitration institutions and centres.
- Arbitration contrast with other forms of ADR or valuation/adjustment.

Week 2: Arbitration Ordinance

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

Week 3: Agreement to arbitrate

- Importance, scope, form and elements of arbitration agreements
- Reasons and examples of ambiguous arbitration agreement
- Notice of arbitration
- Construction/interpretation of arbitration agreement.
- Enforcing arbitration agreement – stay of court proceedings
- Arbitrability

Week 4: Appointment of arbitrators

- Capacity, availability and qualifications imposed by agreement and/or law, if any
- The appointment of an arbitrator in different tribunals of a sole, two, three or more
- Power to appoint – parties, appointing bodies, statutory appointing bodies (such as the HKIAC) and the national courts
- Terms of appointment
- Resignation and replacement of an arbitrator; death of an arbitrator

Week 5 & Week 6: Rights, duties and powers of an arbitrator

- Basic duties of an arbitrator: natural justice, to proceed diligently without undue delay and economically
- Arbitrator's rights to fees/remunerations: parties jointly and severally liable; normal way of charge; difference between reasonable fees and fixed fees on appointment; right to deposit, cancellation fees and lien on award; control, if any, by national courts (contrast

- HK with England)
- Immunity of arbitrators
- Source of arbitrators' powers and widening of powers: powers to progress with reference and interim measures
- Control of arbitrators' powers by national courts

#### Week 7 & Week 8: Commencement and interlocutory proceedings

- Commencement of arbitration and time bar/limitations imposed by legislation, foreign law and contract
- Normal interlocutory proceedings: Preliminary meetings; pleadings (amendments & clarifications); preliminary issues; general or specific discovery/disclosure of documents; capping of costs; interrogatories; preparations for hearing; hearing; award; want of prosecution; case management and sanctions
- Interim measures: security for costs; security for claim & counterclaim; injunctions; preservation of evidence; sale of goods/property; etc.; concurrent powers of arbitrator and court; Difference between HK and English arbitration law
- Orders and sanctions

#### Week 9 & Week 10: Evidence & Hearing

- Relevance of rules of evidence.
- Types of evidence.
- Privilege document or information.
- Hearings: preparation and proceedings

#### Week 11: Costs & Interest

- Types of arbitration costs
- Assessment and determination of recoverable costs
- Ways to minimize or reduce high costs in arbitration.
- Interest: period, applicable rate, simple or compound.

#### Week 12: Award & Enforcement

- Form, essential requirements, and types of awards
- Working & publication of an award; scrutiny; release of draft award; etc.
- Remedies and challenges of an award.
- Enforcement of awards

#### Week 13: Wrap up & review of course

## 2. Reading List

### 2.1 Compulsory Readings

*(All available online from CityU Library.)*

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)



## 2.2 Additional Readings

*(Additional references for students to learn to expand their knowledge about the subject.)*

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 <a href="https://arbitrationblog.kluwerarbitration.com/">https://arbitrationblog.kluwerarbitration.com/</a>
4.	<a href="http://www.hkiac.org">www.hkiac.org</a>
5.	<a href="http://www.adr.org">www.adr.org</a>
6.	<a href="http://www.cedr.co.uk">www.cedr.co.uk</a>
7.	<a href="http://www.jamsadr.com">www.jamsadr.com</a>
8.	<a href="http://www.odr.info">www.odr.info</a>
9.	<a href="http://www.arbitrators.org">www.arbitrators.org</a>
10.	<a href="http://www.hklawsoc.org.hk">www.hklawsoc.org.hk</a>
11.	<a href="http://www.hkba.org">www.hkba.org</a>