

# Professional Certificate in Arbitration

*Note: There will be no intake into this program in 2011.*

## 1 Duration of program

Taught over two semesters, the Professional Certificate in Arbitration comprises a General and Advanced course. Each course is taught over a 13 week semester with a mix of online learning and face to face workshops. There is a compulsory one and half-day face to face workshop each semester and an additional one and half day face to face Introduction workshop at the start of each semester.

The Introduction workshop session is highly recommended. It will include an introduction to the Australian Legal System and an overall introduction to the program offering. Students can choose to undertake components covered in the Introduction workshop online.

## 2 Admission

### 2.1 Basic qualifications

2.1.1 The qualifications which would allow automatic admission to the Professional Certificate are recommended as one of the following:

- a A degree from a University recognised by the University of Adelaide in a field or discipline leading to the holder's practice in the relevant field, plus two years continuous practice in the field
- b A diploma or other tertiary qualification from a University or institution (including a TAFE college) recognised by the University of Adelaide, plus not less than three years experience in the practice of the calling for which the qualification is held

*or*

- c A recognised industry-based qualification (such as training in business management through the Institute of Management), the holding of a senior and responsible position within business or industry with not less than four years total experience

*or*

- d The holding of a senior position in a field of practice or discipline, plus not less than five years total experience in that field

*or*

- e Such other qualification or experience as the University of Adelaide School of Law, on the advice of the Board of Management for the Professional Certificate in Arbitration, sees fit.

2.1.2 Being a person of good repute with no criminal record and holding a senior and respected position in the field of practice in which the person works.

### 2.1.3 Relevance of the Professional Certificate as contributing towards a Masters degree

Graduates possessing a Professional Certificate may be allowed to continue to study for the qualification of a Masters Degree Law specialising in Arbitration provided that:

- a They possess the necessary other qualifications required (e.g. the holding of an appropriate degree)
- b They are acceptable to the relevant Faculty of Law admitting them as students.

### 2.2 Status

Candidates possessing a law degree may be granted exemption from the General Program, dependent on their years of experience in the field and the number of ADR cases dealt with in their professional career.

## 3 Assessment

General course assessment comprises the following:

- a participation at compulsory face-to-face workshop
- b assignment (up to 3,000 words)
- c two-hour exam
- d participation in online activities specified in the assessment requirements.

The Advanced course assessment consists of the following:

- a participation at the compulsory face-to-face workshop
- b assignment (up to 5,000 words)
- c three-hour final exam
- d participation in online activities specified in the assessment requirements.

## 4 Qualification requirements

### 4.1 Program of study

To qualify for the Professional Certificate, a candidate shall satisfactorily pass the General course and Advanced Course.

## **Graduate Attributes**

### **Professional Certificate in Arbitration**

#### **Knowledge**

- On completion of this program, the student should have an understanding of:
- Basic legal principles applicable to simple arbitrations including the Law of Torts, the Law of Contract, Trade Practices, Law, Waiver and Estoppel and the Law of Evidence
- Principles of Procedural Fairness including bias, notice, opportunity to a present case and rebut an opposing case(s), and the necessity to rely upon logically compelling evidence
- The application, scope and operation of the Commercial Arbitration Act
- The validity and enforceability of an arbitration agreement
- The severability of dispute resolution clauses
- The scope of an arbitrator's jurisdiction
- Confidentiality and privacy within an arbitration
- The principles and process governing the holding of a preliminary conference including knowledge of the various directions which the arbitrator may make to conduct the arbitration fairly and expeditiously
- The principles underlying the arbitrator's power to conduct a mediation
- The distinction in process between expedited and more complex and lengthy cases
- The process of discovery
- Subpoenas
- The principles and process governing simple interlocutory matters
- The distinction between 'documents only hearings' and hearing where oral evidence is taken
- The principles governing the conduct of a fair hearing
- The principles governing the receipt of evidence
- The principles governing expert evidence
- The process governing the receipt of expert evidence
- The principles and process governing the recording of evidence
- The legal requirements of a valid award
- The professional requirements of a well crafted award
- The powers of the courts to review the arbitration process
- The powers of the courts on appeal from an arbitration

#### **Skills**

- On completion of this program, the student should demonstrate the ability to:
- Work within the system/rules governing the accepting and handling of cases
- Allocate time, effort and other resources so as to deal expeditiously with information, issues, scheduling, witnesses, parties and the conduct of an arbitration
- Explain the role of the arbitrator
- Conduct a simple preliminary conference
- Determine simple questions of legitimacy and jurisdiction
- Supervise the parties to an arbitration
- Handle simple interlocutory matters.
- Keep proper records of arbitration
- Speak clearly
- Maintain a conducive atmosphere throughout the arbitration
- Conduct a fair hearing
- Conduct a simple hearing according to the requisite procedural requirement
- Organise and analyse data
- Differentiate between different types of evidence (oral, documentary, direct, indirect, hearsay)
- Correctly apply basic legal principles to simple fact scenarios
- Observe and accurately interpret evidence
- Differentiate between the value and reliability of evidence
- Determine inferences that can be properly drawn from data presented and omitted
- Bring simple cases to completion
- Summarise facts and conclusions
- Reference any law relied upon

- Convey a decision clearly to the parties.

**Attitudes**

- On completion of this program, the student should demonstrate an:
- Understanding of the appropriate relationship between an arbitrator and the parties to dispute
- Understanding of the need to remain impartial and independent
- Understanding of the need to maintain legitimacy
- Understanding of the need to remain informed, responsible and critically discriminating in his or her participation in the community
- Commitment to ethical and personal standards of professional behaviour.