

**City University of Hong Kong
Course Syllabus**

**offered by School of Law
with effect from Semester A in 2024 / 2025**

Part I Course Overview

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

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.

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.

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 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.

3. Learning and Teaching Activities (LTAs)

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

LTA	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. 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.	√	√	√	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 (group essay)	√	√	√	30%	See below The use of Generative AI tools is not allowed.
Participation	√	√	√	10%	
Examination: <u>60</u> % (duration: 2 hours and 30 minutes)					
Open book examination	√	√	√	60%	See below The use of Generative AI tools is not allowed.
				100%	

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.

5. Assessment Rubrics

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

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

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 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.

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

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

Part III Other Information

1. 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 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

W3: Agreement to arbitrate

- Importance, scope, form and elements of arbitration agreements
- Applicable 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

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 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