

# ASK EXPERIENCED PRACTITIONERS

## Association of Arbitrators (Southern Africa) NPC

### Online Workshop



## ADR QUESTIONS AND ANSWERS

Please join us for this interactive online workshop, presented by **Mr Jonathan Mitchell**, the Regional Branch Chairman of our Western Cape branch, as part of the Association's ongoing mission to provide regular upskilling opportunities for its members and for everyone interested in Alternative Dispute Resolution (ADR).

### ABOUT THE WORKSHOP:

The purpose of the online workshop is to upskill arbitrators who are not from the legal fraternity and may have become somewhat rusty on certain terminology which crops up from time to time in arbitration, adjudication and/or mediation. This workshop will also be beneficial to the Association's students as it will assist in preparing them to become competent arbitrators.

The online workshop is an open discussion debate forum where Mr Mitchell, an experienced arbitrator, will act as the chairperson of the deliberations.

### Following are the topics for discussion, debate and deliberation at the workshop:

1. How should the Arbitrator address the situation where one party to an Arbitration keeps requesting a postponement of the arbitral proceedings because he keeps changing attorneys?
2. Article 25 of our **Rules** allows for early dismissal of claims and defenses. On what basis may a party apply for such early dismissal?
3. How does an Arbitrator define his jurisdiction?
4. How should an Arbitrator conduct the arbitral proceedings where the Claimant raises a new issue in its reply to the Statement of Defence?
5. Where a party fails to place the Arbitrator in funds:
  - 5.1. May the Arbitrator suspend the arbitral process?
  - 5.2. Is that party in default according to the Rules?
  - 5.3. May the Arbitrator dismiss that party's case and continue with the arbitral process?
6. In Court one may apply for a default judgment under certain circumstances. Can one do likewise in an Arbitration and apply for a Default Award?
7. How should the Arbitrator conduct the arbitral process where, after agreeing all of the submission dates, one party files its Pleadings two days late and the other party brings an application for those late Pleadings to be dismissed?
8. May an Arbitrator issue an Interim Order without a party applying for him/her to do so?
9. How should the Arbitrator conduct the Arbitral Proceedings if Claimant has failed to submit a Notice of Arbitration?
10. What must be included in a Notice of Arbitration?
11. What is a "Sealed Offer"?

12. If a "Sealed Offer" is only valid for acceptance by a specified date, and such date has passed by the time the Arbitrator opens same, after publishing his Award, does the content of the "Sealed Offer" still have an effect on the award of costs?
13. Should the Respondent file a Response to the Notice of Arbitration?
  - 13.1. If so, what should it contain?
  - 13.2. What if Respondent fails to file a Response?
  - 13.3. May the Arbitral Proceedings continue without a Response?
14. Does the Arbitrator have the power to rule on his/her own jurisdiction?

**ABOUT OUR PRESENTER:**

**Mr Jonathan Mitchell:**



Jonathan is the Western Cape Regional Branch Chairman of the Association of Arbitrators (Southern Africa). He is also a Director and Fellow of the Association. He is a practicing Arbitrator; Adjudicator; and Mediator in the Western Cape and has been practicing since 1994.

Jonathan has a wealth of knowledge and experience in the field of Alternative Dispute Resolution and runs a busy consulting practice in Cape Town. He specialises in the field of disputes in the construction industry and is a Past President of the Master Builders and Allied Trades Association; is a Past Chairman of the Building Industry Bargaining Council; and is a Fellow of the Chartered Institute of Building.

**LINK:** The link will be emailed to you upon receipt of your completed [Registration Form](#) and payment.

**COST (incl. VAT):** Association, ACPM, BI Arb, CESA, MBA, RICS, SAICE and WISA Members: **R 50.00**  
 Non-members: **R 100.00**

**RSVP:** Please send your completed [Registration Form](#) to our Financial Manager **Michelle Venter** at [michelle@arbitrators.co.za](mailto:michelle@arbitrators.co.za)

**THEY SAID WHAT?**

Mr George Fullard  
 "Provided great insight into the subject matter."

Adv Makh Gaisa  
 "Very informative, thank you."

Mrs Brigitte Lubbe (Carpenter-Kling)

Mr Kobus Greyling  
 "This was most useful. I will certainly attend the next one. Thank you very much."

Mr Richard Morgan  
 "Thank you! Much needed for day to day practicalities."

Adv Kiki Bailey  
 "Thank you Jonathan, once again, for a very productive workshop."

"I would like to see this as a regular feature. The workshop was very helpful with many issues where there is often uncertainty."