



# ASSOCIATION OF ARBITRATORS (Southern Africa) NPC

## Arbitrarily Speaking

Issue 4 of 2026

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### MESSAGE FROM THE EDITOR

Welcome to the fourth edition of our new format Association newsletter, **Arbitrarily Speaking**.

Our Western Cape branch hosted an Arbitration Workshop on 20 March 2026. This proved to be a resounding success, with an impressive 162 delegates registered, reflecting the growing popularity of these sessions.

The two-hour workshop was highly interactive, enriched by the participation of Professor David Butler and enhanced through live polling, which encouraged engagement and immediate feedback. Attendees responded enthusiastically, with the Association receiving numerous complimentary emails noting how much they had learned and how valuable they found the session.

The level of discussion was such that not all prepared material could be covered, prompting plans for a follow-up workshop. Overall, the overwhelmingly positive feedback underscores the workshops' value in upskilling both arbitrators and students.

Want to get involved in the next one? Contact us [here](#).

## BREAKING NEWS

### COLLABORATION: CESA AND THE ASSOCIATION

See the announcement from the Association's Chair, [Adv Tjaart van der Walt SC](#), regarding this beneficial relationship and co-operation between the [Consulting Engineers South Africa](#) (CESA) and the Association.

[Click HERE](#)  
[for the Full Announcement](#)

## RECENT DEVELOPMENTS

### SPACE LAW - THE UK'S ROLE IN A CROWDED AND CONTENTIOUS FINAL FRONTIER

The transition from government-led space exploration to a booming commercial economy has transformed Earth's orbit into a crowded, contentious environment. With over 11,700 satellites and mounting space debris, the risk of collisions and geopolitical conflict is escalating. However, foundational international agreements, like the [1967 Outer Space Treaty](#), were designed solely for state actors and lack the mechanisms to handle modern disputes involving private companies or third-party damages.

To address these critical legal gaps, international arbitration is rapidly emerging as the preferred method for resolving complex space disputes, offering essential flexibility, confidentiality, and technical expertise. The United Kingdom is actively positioning itself as a leader in this new era of space governance. By modernizing its domestic regulations and leveraging its established legal infrastructure, the UK aims to become a premier global hub for space law and arbitration.

[Click HERE](#)  
[for the Full Article \(pages 24 to 29\)](#)

## THE ASSOCIATION'S EVENTS



### NAVIGATING THE GAUTENG MEDIATION DIRECTIVE AND PROTOCOL

Our Experienced Practitioner, [Adv Paul Strathern SC](#) (Fellow (FAArb), Module 4 Tutor, Management and AI

Committee member), will present this webinar as part of the **Association's** ongoing mission to provide regular upskilling opportunities for everyone with an interest in alternative dispute resolution (ADR).

Gain valuable insight into the Gauteng Judge President's Mandatory Mediation **Directive and Protocol**, applicable to civil trials in the Gauteng Provincial Division of the High Court of South Africa, as Adv Strathern SC endeavours to unpack the important changes and identifies potential pitfalls introduced by the new requirements.

Date: **23 April 2026**

Time: **18:00 to 19:30 (SAST)**

[Click HERE](#)  
[for More Information and to Register](#)



## ADR QUESTIONS AND ANSWERS

This interactive online workshop is a continuation of the successful online workshop held on 20 March 2026.

**Mr Jonathan Mitchell** (Western Cape Regional Chair) will chair the deliberations in the open debate and discussion forum whilst 6 important questions are addressed.

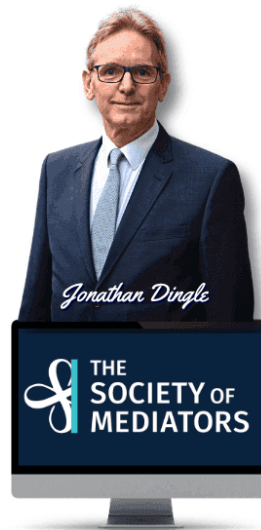
Date: **8 May 2026**

Time: **10:30 to 11:30 (SAST)**

[Click HERE](#)  
[for More Information and to Register](#)



25 to 29 May 2026



## 5-DAY ONLINE FOUNDATION MEDIATION COURSE<sup>1</sup>

Join the **Association of Arbitrators (Southern Africa) NPC**, in partnership with the leading London mediation training charity **The Society of Mediators (UK)**, to receive foundational mediation training accredited by the Civil Mediation Council (UK) and the Chartered Institute of Arbitrators (UK).

Dates: 25 to 29 May 2026

[Click HERE](#)  
for More Information and to Enrol

[Click HERE](#)  
to View Past Events

## TOOLS OF THE TRADE

### **FORCE MAJEURE CLAUSES UNDER PRESSURE – 2026 CRISIS LESSONS**

Fundamental weakness in commercial contracts are being laid bare by the current Middle East conflict. Since US and Israeli military operations against Iran began in February 2026, passage through the Strait of Hormuz has become dangerous, commodity and energy prices have spiked, and global supply chains are being rerouted. Firms across the world are now turning to their *force majeure* clauses, the contractual provisions meant to excuse performance in extraordinary circumstances and finding them inadequate.

Why this is happening? Standard *force majeure* language is drafted around headline "trigger" events like war or natural disaster, but modern crises cause harm indirectly, through rising energy costs, broken logistics networks, and the withdrawal of capital. Courts apply strict tests: performance must be truly impossible, not merely harder or more expensive, and the causal chain between a conflict in the Persian Gulf and a manufacturer in Munich struggling with soaring costs is, legally speaking, weak. Most firms invoking these clauses will find they are not protected.

There are three categories of risk that standard clauses typically miss: commodity and energy price volatility, cascading supply-chain disruption, and the withdrawal of financing and proposes seven concrete drafting principles to address them.

<sup>1</sup> For purposes of the Gauteng Judge President's Mandatory Mediation **Directive and Protocol** applicable to civil trials in the Gauteng Provincial Division of the High Court of South Africa as revised from time to time (the Directive and Protocol), the Association is a listed Recognised Mediation Organisation (RMO) affiliated with ADRP-SA.

**Ms Adine Abro** provides practical guidance for firms dealing with existing contracts.

**[Click HERE](#)**  
**[to Read Further](#)**

## **UNCLE OSWALD'S Q&A FORUM – FROM THE VAULT**

### **HE SAID, SHE SAID ... HOPING TO HEAR ABOUT 'HEARSAY' EVIDENCE**

Uncle Oswald assists Daantjie Duiwel regarding his hearsay evidence submission.

**[Click HERE](#)**  
**[to Continue Reading](#)**

**Arbitrarily Speaking is the official newsletter of the  
Association of Arbitrators (Southern Africa) NPC.**

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