



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



International Arbitration During COVID-19

Arbitration has long been an important dispute resolution process in the maritime industry. Many of us have appeared in or advised about arbitrations, a few of us have been appointed as arbitrators.

In early 2020, the Chartered Institute of Arbitrators (CIArb) offered the opportunity to study its Diploma of International Commercial Arbitration in Kuala Lumpur. This looked very enticing. I had started my preparations to attend, then COVID hit.

As lockdowns began and some courses moved online, I thought it would be a good use of time to undertake the CIArb's award writing course. However, since I was only an associate of the CIArb, I decided to upgrade my membership from associate to member by undertaking the Accelerated Route to Membership (ARM). I could later upgrade my membership from member to Fellow.

The ARM focuses upon the law, practice and procedure of international commercial arbitration. There was a pre-course assignment worth 20%. The materials for the ARM comprised a lever arch folder of materials. Through Zoom, I attended the two full-day workshops. These were practical, thought provoking and very useful.

I then sat a take-home exam, comprising four essays. The pass mark was 65%. Thankfully, I cleared the first hurdle.

Next, I had to pass the CIArb's Law of Obligations module. Lawyers of some years' experience were eligible to sit an exemption test. The pass mark was 70%. My advice here is to give yourself plenty of time and not to rush through it. You are given the materials for the Law of Obligations in advance, so a search through the materials will provide you with what you need to answer the questions.

I cleared the second hurdle and was now in a position to undertake the award writing course.

This course is not for the fainthearted. I know a number of adept lawyers who have failed the exam. There are similar stories from retired judges.

Despite these ominous stories, I persevered. There was, again, a lever arch folder of materials and three full-day tutorials via Zoom.

Writing an award is quite a challenge. While it bears similarities to a court judgment, there are particular demands as to form and substance that make it different.

While an award should be clear, concise and reasoned, it should also contain a brief description of the arbitral process and hearing. It should not be discursive and should not canvass issues not put to the arbitrator.

After completing the tutorials, a take-home exam was provided in two parts. The first part enabled me to write approximately half of the award. I was given about a week to prepare this. The second half of the exam was given to me to complete within 48 hours. This information enabled me to complete my award.

I passed the award writing exam (three hurdles cleared!), so I can now apply to become a Fellow of the CIArb. This final process involves being interviewed by a Fellow. As I write, I am waiting to be

interviewed [Ed – following Mr Harvey submitting this article to *Semaphore*, he was duly admitted as a Fellow of the CIArb].

If you are keen to work in the arbitration field, I strongly recommend that you complete the ARM. I also recommend that you complete the award writing course and become a Fellow of the CIArb. If you want to become an arbitrator in international disputes, Fellowship of the CIArb is bordering on the essential.

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