

Labour law

VDW | van der Westhuizen
ATTORNEYS & associates

Our services

We provide assistance in all labour-related matters, whether it is at workshop level, sectoral level or at an approved dispute resolution forum. We represent clients at the CCMA, Bargaining Councils, Labour Court, Labour Appeal Court, High Court and Supreme Court of Appeal.

General disciplinary procedures

If an employer wishes to discipline an employee for any alleged misconduct or is unfamiliar with how to implement proper procedures and policies in the workplace, we will assist in the drawing of charge sheets and how to embark on investigating the allegations against the employee. We will further assist an employer in how to deal with, for example, poor performance or substance abuse in the workplace, amongst other things.

Disciplinary enquires and consultation processes

Dismissing an employee is not as simple as calling them into your office and informing them of the transgression and thereafter telling them that they must clear their desk or locker and leave. The law is much more onerous on employers. We assist in drawing up all notices and facilitating any consultations which must be held with employees. Consultations must normally be held with employees in matters relating to poor performance, ill health enquiries or retrenchments. We can further assist by chairing disciplinary enquiries to enable any disciplinary sanction which may be imposed to be deemed fair and thus not disputable before the CCMA or other statutory council.

Transfer of employment contracts

If an employer is selling its business as a going concern, the employment contracts are normally sold with the business. We can assist employers in ensuring that any transfer of employment contracts is procedurally correct and fair by facilitating any consultations which are required by law and having regard to any statutory obligations which may be imposed on the employer.

Collective labour law

We advise and assist our clients in all disputes relating to collective labour law, such as union recognition, organisational rights and bargaining rights disputes. We also assist in the

implementation of collective agreements, closed-shop agreements, wage negotiations, strikes and lock-outs.

Sectoral disputes and compliance

We offer assistance in ensuring that clients are not forced to register with a particular Bargaining Council and thus be forced to register and pay minimum-wages and various other 'levies' and 'returns' which may be payable to a Bargaining Council. In the event that an employer does not operate within a particular industry, but is facing a compliance order from a Bargaining Council, we will assist in referring a demarcation dispute to the CCMA to have a Commissioner consider the primary purpose for which the client conducts its business in determining whether the client should fall within the scope of a particular Bargaining Council.

In the event that an employer does operate within a particular Bargaining Council or industry defined by that Bargaining Council we will assist in ensuring that the employer complies with the obligations imposed on it by the various agreements which the employer is bound by and to also lodge applications for exemptions from some or all of the requirements the employers is obliged to meet in complying.

Internal policies and procedures

We are able to assist employers in drawing up various disciplinary codes and procedures and other workplace policies to enable an employer to have better control and management over its workforce and ensure that any disciplinary action that may be taken against an employee has been communicated to the employee in through means of the particular policy. We can also draw policies relating to HIV/Aids in the workplace, sexual harassment, alcohol abuse, internet and email policies; and general codes and procedures. We can further assist in complying with the Compensation for Occupational Injuries and Diseases Act by ensuring that the employer complies with the appointing of Safety Officers and that any obligatory reports are compiled and submitted correctly.

Services overview

- Advice of all labour legislation
- Agency and closed-shop agreements
- Arbitrations
- Bargaining Council disputes
- Chairing of disciplinary hearings
- Collective bargaining and agreements
- Demarcation disputes
- Discrimination
- Dismissals
- Employment contracts
- Implementing of disciplinary processes and policies
- Litigation
- Mutual interest disputes
- Organisation rights disputes
- Picketing agreements
- Restraints of trade
- Retrenchments
- Sectoral determinations
- Sexual harassment
- Strikes and lock-outs
- Transfer of employment contracts
- Unfair labour practices
- Workplace policies and procedures

For more information

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