



Sean Jamieson


Senior Associate

Sean Jamieson is a Senior Associate in our Employment Law practice.

Practice areas

Employment Law

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Career

Sean joined Cliffe Dekker Hofmeyr Inc as a Candidate Attorney in 2015. He was appointed as an Associate in 2017 and promoted to Senior Associate in 2019.

Experience

- Experience with urgent applications to interdict unprotected strikes, picketing and breach of restraints of trade in the mining, chemical, steel, local government and road freight industries;
- Advice on transfers of a business as a going concern in terms of section 197 of the LRA, including drafting urgent declarator applications on the applicability of section 197 to a transaction;
- Drafting of legal opinions on all aspects of South African employment law;
- Representation and appearances at CCMA and bargaining councils for unfair labour practice disputes, unfair dismissal disputes and interpretation of collective agreements;
- Appearances in Labour Court for urgent interdict applications, review applications and interlocutory applications;
- Chairing and prosecuting disciplinary hearings across all employee job levels in the private and local government sectors, including large scale hearings for misconduct committed during strike action;
- Advice on pension/provident funds, including advice on pension fund transfers and surplus allocations;

- Drafting of legal agreements such as restraint of trades, section 197 agreements and mutual separation agreements;
- Drafting of pleadings in the Labour Court, Labour Appeal Court and High Court;
- Drafting and reviewing employment contracts, including executive contracts;
- Conducting employment law due diligences in respect of various commercial transactions; and
- Advising on restructuring of companies and alternative business models such as the MSP model.

Advisory

- Advised clients such as Unitrans Supply Chain Solutions (Pty) Ltd, Cape Gate (Pty) Ltd, South32 SA Ltd and Omnia Group (Pty) Ltd on various occasions on whether imminent (or already occurring) industrial action of trade unions and employees is protected, whether the client may approach the Labour Court/High Court to interdict such conduct and, if so, the legal grounds to rely on in order to obtain the interdict.
- Advising clients on the management of prolonged protected strikes enduring for up to 4 months, including strikes taking place at Unitrans Supply Chain Solutions (Pty) Ltd and Cape Gate (Pty) Ltd.
- Conducted a large-scale grievance investigation for a large mining company in South Africa. This involved attending the mine, conducting interviews with various employees, preparing a detailed report into the allegations and advising the client on the recommended action to be taken in order to resolve the grievances.
- Junior associate advising Adfusion (Pty) Ltd on the implementation of the MSP (Management Service Provider) Model in the Shoprite Distribution Centre. This was one of the first 'test cases' on the implementation of the MSP model in light of recent amendments to labour legislation. The advice later stemmed into representation at the CCMA arbitration proceedings, where Adfusion was successful.
- Advised a large-scale logistics company in September 2018 on whether the termination of its sales and merchandising services provided to its client triggers the application of section 197 of the LRA and whether the company could consequently demand the client to take over the employees and assets concerned as a going concern.
- Lead associate in investigations against 3 executive employees of one of the largest fertilizer manufacturing companies with its head office situated in Mauritius. This involved travelling to Mauritius, interviewing 14 employees, drafting witness statements and preparing for the disciplinary hearings.
- Advising one of the leading road freight and logistics companies on mitigating the effects of an adverse Constitutional Court ruling.
- Advising the Bargaining Council for the Civil Engineering Industry on whether companies are demarcated within its jurisdiction and whether such companies must register with the council.
- Drafted the most recent Constitution for the Bargaining Council for the Civil Engineering Industry.

Litigation

- Successfully argued a review application in the Labour Court for Sun International Limited to review and set aside an adverse arbitration award. The case is a reportable judgement and deals with unfair discrimination claims.

- Successfully represented Westwood Insurance Brokers in a CCMA dispute concerning whether or not the failure to renew or convert an employee's fixed term contract of employment to permanent employment constitutes an unfair dismissal.
- Independently appeared at the Labour Court and obtained an interdict for Unitrans Supply Chain Solutions (Pty) Ltd in an urgent application against striking members of trade union AMCU. This involved drafting all pleadings and appearing in the Labour Court to argue the application independently. Successfully argued many such interdict applications for Unitrans and other clients.
- Lead associate in successfully obtaining a permanent court order for Calgan Lounge (Pty) Ltd against the EFF (political party) prohibiting the EFF, as a political party, from interfering in the employment relationship and from taking employees out on strike (reportable judgement).
- Successfully represented Cape Gate (Pty) Ltd at the CCMA in an interpretation of collective agreement dispute against trade union AMCU.
- Lead associate representing Unitrans Supply Chain Solutions (Pty) Ltd (a division of KAP in the Steinhoff Group of Companies) & Xinergistix (Pty) Ltd in an urgent section 197 application at the Labour Court. Unitrans successfully argued that the change in service providers did not amount to a section 197 transfer on the basis that the mere transfer of delivery services does not constitute a transfer of an economic entity.
- Independently appeared for Samancor Chrome Limited in the Labour Court and successfully opposed the Applicant's condonation application (case no: JS303/18).
- Lead associate representing Tanker Services, a Division of Imperial Group (Pty) Ltd in successfully defending an unfair dismissal claim of various employees (and members of trade union AMCU) pursuant to retrenchment proceedings.
- Representing the Bargaining Council for the Civil Engineering Industry in various demarcation disputes at the CCMA. Most recently, involvement in demarcation disputes concerning whether or not companies should be demarcated in the mining or civil engineering industry.
- Lead associate in successfully drafting all pleadings for an application to interdict an erstwhile employee of Betterbond (Pty) Ltd from breaching his restraint and confidentiality obligations to Betterbond.
- Independently represented Cape Gate (Pty) Ltd in an unfair dismissal dispute of 4 employees regarding their involvement in an attempted and unauthorised transfer of provident funds.
- Assisted in prosecuting two mass disciplinary hearings for Midvaal Local Municipality for employee misconduct committed during an unprotected strike. The hearings endured for approximately 13 months.
- Chairing disciplinary hearings for various clients. This would require presiding over the hearing as the chairperson, ensuring that the hearing is run in a procedurally correct manner, consider all of the evidence and issuing written findings on guilt and sanction. Recently chaired a high profile hearing in September 2018 for a large pumping solutions company concerning allegations of fraud and theft by a senior employee of the company.
- Drafted charge sheets against senior members of a South African airline maintenance service provider regarding allegations of tender irregularities.

Transactional

- Advising various clients on the application of section 197 of the LRA to a particular transaction, including: Takealot Online, Cape Gate (Pty) Ltd, Unitrans Supply Chain Solutions (Pty) Ltd, Sizwe Africa IT Group and Imperial Group (Pty) Ltd. This involves analysing the case law relevant to each transaction and drafting a legal opinion on whether the transaction will trigger the application of section 197 or not.
- Lead associate advising on the merger between Superbalist (subsidiary of Takealot Online) and Spree (division of Media24) into a new online fashion distributor, FashionCo. This involved advising on approach strategies regarding the section 197 transfer of Spree and Superbalist employees into FashionCo and the restructuring process. Recent case law had to be innovatively interpreted and applied, in giving effect to the process.
- Advised Cape Gate (Pty) Ltd on the structuring of a section 197 agreement in respect of the transfer of a part of its business.

Pension/Provident Fund

- Independently advised two senior executives on challenging their pension fund surplus allocations and on their prospects of success. This included drafting a formal complaint to the Board detailing its breaches of the Pension Funds Act, 24 of 1956 and advice on launching a complaint to the Pension Funds Adjudicator.
- Advising the Bargaining Council for the Civil Engineering Industry on the administration of its Retirement Benefit Collective Agreement, which regulates pension fund benefits of employees in the industry. This instruction involved specific advice regarding the legitimacy of the fund administrator's claims that the exemptions clause in collective the agreement is contrary to the Pension Funds Act.
- Represented Cape Gate (Pty) Ltd in a dispute regarding employees' involvement in an attempted and unauthorised transfer of provident funds. This involved initially investigating and advising the client on the requirements to transfer pension funds in terms of section 14 of the Pension Funds Act and thereafter investigating the illegality of the attempted transfer (this is also covered under litigation experience above).

Education

- BA Law, University of Pretoria
- LLB, University of Pretoria
- Year admitted as an attorney: 2017
- Enrolled with the Legal Practice Council