

7 MAY 2018

# EMPLOYMENT ALERT

## S\*XUAL HARASSMENT IN THE WORKPLACE

[CLICK HERE](#) to access our guideline

Due to the title of our guideline, spam-filters may block this email, misidentifying it as explicit material. To avoid this, we have inserted an asterisk.

## IN THIS ISSUE

### PROPOSED HATE CRIMES LEGISLATION – WHAT IT MEANS FOR EMPLOYERS?

During 2017, the Constitutional Court handed down a decision dealing with the use of racially offensive language in the workplace.

# PROPOSED HATE CRIMES LEGISLATION – WHAT IT MEANS FOR EMPLOYERS?

*Times are quickly changing and the legislature appears set to codify what the courts have already put in motion.*

*The Bill (once adopted) aims to formally criminalise the common law position around hate crimes and hate speech.*



**During 2017, the Constitutional Court handed down a decision dealing with the use of racially offensive language in the workplace.**

In doing so, it held that such behaviour has no place in any workplace and should be rejected with absolute contempt by all that are committed to the values of human dignity, equality and freedom.

It went on to hold that the courts must deal with such matters in a manner that will 'give expression to the legitimate feelings of outrage' and revulsion that reasonable members of our society - black and white - should have, when acts of racism are perpetrated."

Then, during early 2018, South Africa saw the first case in its constitutional democracy where an individual was convicted for racism and sentenced to imprisonment.

Times are quickly changing and the legislature appears set to codify what the courts have already put in motion.

Usher in the 'The Prevention and Combating of Hate Crimes and Hate Speech Bill'.

The Bill (once adopted) aims to formally criminalise the common law position around hate crimes and hate speech, and regrettably a number of these incidents still take place

in the workplace, making employees susceptible to not only disciplinary and civil action, but now criminal prosecution too. Briefly, s4(1)(a) of the proposed Bill seeks to provide wide protection that will apply to any communication that is threatening, abusive or insulting towards any other person or group of persons.

The penalties, if convicted under the Bill (and once passed), currently include a fine or imprisonment and as such, employers should take positive steps to educate its employees in order to avoid any such occurrences and the negative publicity that may follow this developing area of law.

Other proactive steps may include updating existing disciplinary codes, grievance procedures, as well as social media and acceptable behaviour policies in the workplace.

As for the status of the Bill, it has been introduced into the National Assembly and will be followed by public invitations for submissions and comment.

More updates to follow.

*Nicholas Preston and Reza Ahmed*



CHAMBERS GLOBAL 2014 - 2018 ranked our Employment practice in Band 2: Employment.

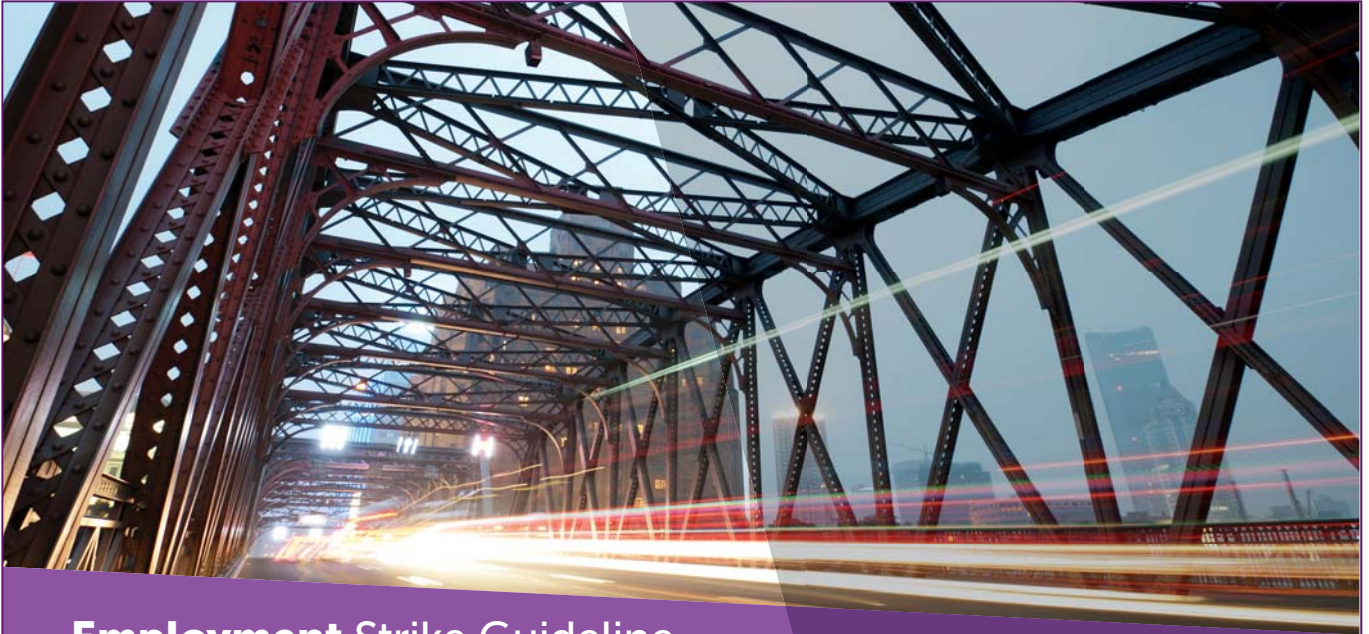
Aadil Patel ranked by CHAMBERS GLOBAL 2015 - 2018 in Band 2: Employment.

Hugo Pienaar ranked by CHAMBERS GLOBAL 2014 - 2018 in Band 2: Employment.

Fiona Leppan ranked by CHAMBERS GLOBAL 2018 in Band 2: Employment.

Gillian Lumb ranked by CHAMBERS GLOBAL 2017 - 2018 in Band 4: Employment.

Gavin Stansfield ranked by CHAMBERS GLOBAL 2018 in Band 4: Employment.



## Employment Strike Guideline

Find out what steps an employer can take when a strike is unprotected.

 [Click here to find out more](#)



### Best Lawyers 2018 South Africa Edition

Included 53 of CDH's Directors across Cape Town and Johannesburg.

Recognised Chris Charter as Lawyer of the Year for Competition Law (Johannesburg).


Recognised Faan Coetzee as Lawyer of the Year for Employment Law (Johannesburg).

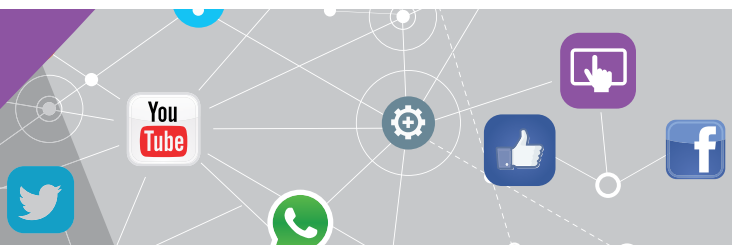
Recognised Peter Hesseling as Lawyer of the Year for M&A Law (Cape Town).

Recognised Terry Winstanley as Lawyer of the Year for Environmental Law (Cape Town).

Named Cliffe Dekker Hofmeyr Litigation Law Firm of the Year.

Named Cliffe Dekker Hofmeyr Real Estate Law Firm of the Year.

 [CLICK HERE](#)  
FOR THE LATEST SOCIAL  
MEDIA AND THE WORKPLACE  
GUIDELINE



Michael Yeates was named the exclusive South African winner of the **ILO Client Choice Awards 2015 – 2016** in the category Employment and Benefits as well as in **2018** in the Immigration category.



## OUR TEAM

For more information about our Employment practice and services, please contact:



**Aadil Patel**  
National Practice Head  
Director  
T +27 (0)11 562 1107  
E aadil.patel@cdhlegal.com



**Gillian Lumb**  
Regional Practice Head  
Director  
T +27 (0)21 481 6315  
E gillian.lumb@cdhlegal.com



**Kirsten Caddy**  
Director  
T +27 (0)11 562 1412  
E kirsten.caddy@cdhlegal.com



**Jose Jorge**  
Director  
T +27 (0)21 481 6319  
E jose.jorge@cdhlegal.com



**Fiona Leppan**  
Director  
T +27 (0)11 562 1152  
E fiona.leppan@cdhlegal.com



**Hugo Pienaar**  
Director  
T +27 (0)11 562 1350  
E hugo.pienaar@cdhlegal.com



**Nicholas Preston**  
Director  
T +27 (0)11 562 1788  
E nicholas.preston@cdhlegal.com



**Thabang Rapuleng**  
Director  
T +27 (0)11 562 1759  
E thabang.rapuleng@cdhlegal.com



**Samiksha Singh**  
Director  
T +27 (0)21 481 6314  
E samiksha.singh@cdhlegal.com



**Gavin Stansfield**  
Director  
T +27 (0)21 481 6313  
E gavin.stansfield@cdhlegal.com



**Michael Yeates**  
Director  
T +27 (0)21 481 1184  
E michael.yeates@cdhlegal.com



**Ndumiso Zwane**  
Director  
T +27 (0)11 562 1231  
E ndumiso.zwane@cdhlegal.com



**Steven Adams**  
Senior Associate  
T +27 (0)21 481 6341  
E steven.adams@cdhlegal.com



**Anli Bezuidenhout**  
Senior Associate  
T +27 (0)21 481 6351  
E anli.bezuidenhout@cdhlegal.com



**Anelisa Mkeme**  
Senior Associate  
T +27 (0)11 562 1039  
E anelisa.mkeme@cdhlegal.com



**Sean Jamieson**  
Associate  
T +27 (0)11 562 1296  
E sean.jamieson@cdhlegal.com



**Devon Jenkins**  
Associate  
T +27 (0)11 562 1326  
E devon.jenkins@cdhlegal.com



**Precness Mohlahlo**  
Associate  
T +27 (0)11 562 1875  
E precness.mohlahlo@cdhlegal.com



**Zola Mcaciso**  
Associate  
T +27 (0)21 481 6316  
E zola.mcaciso@cdhlegal.com



**Prinoleen Naidoo**  
Associate  
T +27 (0)11 562 1829  
E prinoleen.naidoo@cdhlegal.com



**Bheki Nhlapho**  
Associate  
T +27 (0)11 562 1568  
E bheki.nhlapho@cdhlegal.com



**Nonkululeko Sunduza**  
Associate  
T +27 (0)11 562 1479  
E nonkululeko.sunduza@cdhlegal.com

### BBBEE STATUS: LEVEL TWO CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 2 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

### JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.  
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

### CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.  
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

©2018 2352/MAY

