

# EMPLOYMENT ALERT

## LET OUR STRIKE GUIDELINES BE THE STARTING POINT FOR YOUR STRIKE STRATEGY

At Cliffe Dekker Hofmeyr we pride ourselves in providing our clients with practical solution driven information in line with the current challenges faced by our clients.

Due to the increase in strikes and strike violence in South Africa, our employment practice developed useful strike guidelines for our clients' benefit. These guidelines will provide clients with practical information about strikes, lock-outs and picketing and answer some of the more complex questions around these topics. The guidelines are definitely the starting point when considering a strike strategy and when preparing for industrial action. Our strike guidelines can be accessed on our website.

## IN THIS ISSUE

### BREAKING NEWS

## IMPORTANT TES CASE TO BE HEARD AT THE CON COURT TODAY

The Constitutional Court (CC) today hears the Appeal in the Assign Services matter. The Labour Appeal Court (LAC) threw the cat amongst the pigeons in July last year when it favoured the "sole employer" interpretation of the deeming provision in s198A of the Labour Relations Act.

# BREAKING NEWS – IMPORTANT TES CASE TO BE HEARD AT THE CON COURT TODAY

*The Labour Appeal Court (LAC) threw the cat amongst the pigeons in July last year when it favoured the “sole employer” interpretation of the deeming provision in Section 198A of the Labour Relations Act.*

*Look out for our alert on the judgment and its implications.*



The Constitutional Court (CC) today hears the Appeal in the Assign Services matter. The Labour Appeal Court (LAC) threw the cat amongst the pigeons in July last year when it favoured the “sole employer” interpretation of the deeming provision in s198A of the Labour Relations Act.

The LAC found that employees supplied through a Temporary Employment Service (TES) to a client of the TES, who earn under the earnings threshold and work for longer than 3 months, are fully integrated into the enterprise of the client as employees of the client. Somewhat controversially the LAC found that the TES was the employer only in theory and an unwarranted “middle man” adding no value to the employment relationship.

The LAC judgment has caused much consternation and uncertainty within TES operations and amongst clients using the services of a TES. The keenly anticipated CC judgment should bring certainty to the identity of the true employer and allow companies making use of TES employees to properly optimise their staffing needs, within the parameters of the LRA.

Look out for our alert on the judgment and its implications.

*Jose Jorge*



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.

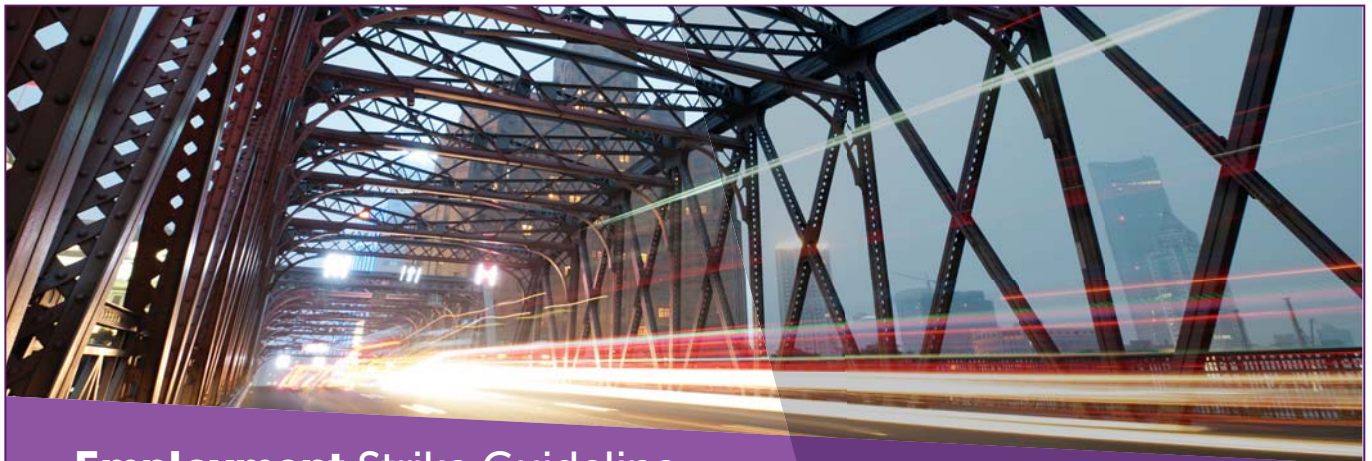
Gillian Lumb ranked by CHAMBERS GLOBAL 2017 - 2018 in Band 4: Employment.

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

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.







## 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).

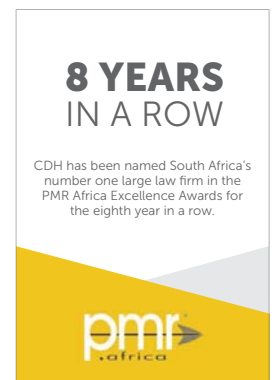
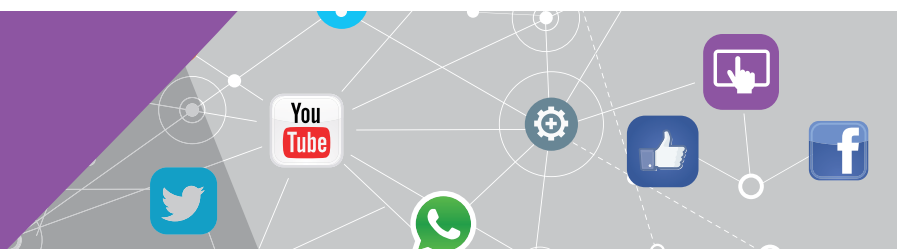
Recognised Peter Hesseling as Lawyer of the Year for M&A Law (Cape Town).

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.

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GUIDELINE



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### BBBEE STATUS: LEVEL THREE CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 3 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.

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