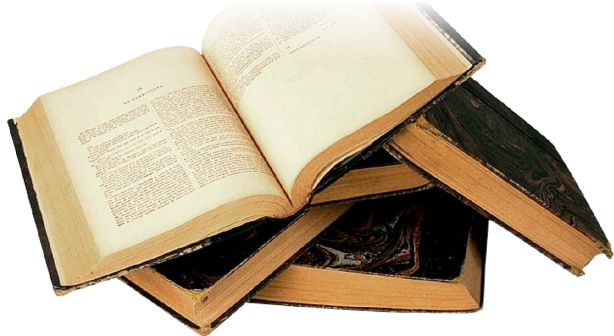


# ABOUT US

Our firm has grown over the past few years from Weyer & Weyer Attorneys to Weyer, Waldick & Willemse and Waldick Jansen Van Rensburg as it is known today. We are committed to client care, partner accessibility and service excellence.

We strive to provide a professional, ethical, reliable as well as an affordable service to our clients.

We also strive to solve all matters in a cost effective manner with optimal results in the shortest possible time.



#### DIREKTEURE • DIRECTORS:

HL WALDICK LLB (UNISA)  
MASTER DEGREE IN INTERNATIONAL BUSINESS LAW:  
LEIDEN, NETHERLANDS

PL JANSEN VAN RENSBURG LLB (UNISA)  
AIPSA DIP Insolvency (UP)

#### ASSISTENTE • ASSOCIATES:

AH KOEN (LLB) • TJ BISHOP (B.com LLB)  
Y DE VILLIERS (LLB) • K PRETSCH (B.com LLB)

#### KANDIDAAT PROKUREURS • CANDIDATE ATTORNEYS:

Z KINGHORN • W COETZEE • JF PAXTON



**Cambridge Office Park**  
**No 5 Bauhinia Street**  
**Building nr. 4, 1st Floor**  
**Techno Park, Highveld, Centurion**  
**Tel: 012 643 0004 / 086 110 0540**  
**Fax: 012 643 0074 / 086 649 1434**




**Randburg Office**  
**Vericred House**  
**347 Kent Avenue**  
**Randburg**  
**Tel: 010 001 3623**  
**Fax: 086 433 1256**



**WALDICK JANSEN VAN RENSBURG**

PROKUREURS.ATTORNEYS.BOEDELBEREDDERAARS.ADMINISTRATORS OF ESTATES

 Informational Pamphlet #1

## UNFAIR DISMISSALS



## HAVE YOU BEEN DISMISSED

- Did your employer fire you ?
- Did your employer tell you to leave the office and not to come back ?
- Did your employer tell you that your services were no longer required ?

If you answered **YES** to any of these questions then you have been dismissed and you may have been dismissed unfairly.

## WHAT IS AN UNFAIR DISMISSAL

This is when you are dismissed from your job and your employer has not given you a fair reason for your dismissal and/or your employer has not followed a fair procedure.

## WHAT MUST I DO IF I HAD BEEN UNFAIRLY DISMISSED

- You must exhaust all internal grievance procedures prior to referring the matter to the CCMA or Bargaining Council.
- Find out what industry or sector you work in e.g. mining.
- Find out if there is a Bargaining Council for your industry or sector.
- To find out if you have a Bargaining Council, contact the CCMA's call centre on **0861 161616**.
- If there is a Bargaining Council, contact the Council for assistance with your dispute.
- If there is no Bargaining Council for your industry or sector, contact the CCMA.
- You only have 30 CALENDAR DAYS to refer the dispute to the CCMA.
- Complete the LRA 7.11 referral form (available from the CCMA).
- Sign the original form. A copy must be served on your employer and filed at the CCMA.
- Collect all the information about the internal company procedures that were followed.
- The CCMA must send you a notice. The notice will tell you what your case number is and the date that you must go to your conciliation at the CCMA.

- If you refer your case to the CCMA after 30 calendar days, ask the CCMA to help you lodge an application for condonation. This means that you are asking the CCMA for permission to hear your application even though you referred your matter too late.

## HOW DOES THE CCMA WORK

### *THE CONCILIATION PROCESS:*

This is an informal procedure where you and your employer try to sort out the problem by means of negotiation with the help of a Commissioner. If the problem cannot be resolved, the Commissioner will issue a certificate saying what the nature of the problem is, and that it could not be resolved through conciliation. The matter will then be referred to arbitration. An attorney may not represent you but you may be represented by a fellow employee or Trade Union representative.

### *THE ARBITRATION PROCESS:*

This process is like a trial at court. Evidence is led by both you and your employer and the Commissioner will then make a ruling on the facts. You are allowed to have an attorney represent you at arbitration.

### *THE CONARB PROCESS:*

This is the procedure whereby arbitration is followed immediately after the conciliation process where the dispute has not yet been resolved. If you do not want arbitration to start immediately after conciliation then you must specify this on the referral form.

### *LABOUR COURT:*

Not all matters can go to arbitration, e.g. Automatically Unfair Dismissals, alleged unfair retrenchments and freedom of association. These matters should be referred to the Labour Court directly after conciliation. In all other matters the Labour Court may only be approached if you want to take a matter on review.

## WHAT WILL HAPPEN IF I AM SUCCESSFUL AT THE CCMA

### AND PROVE THAT MY EMPLOYER DID UNFAIRLY

### DISMISS ME

#### *The Commissioner can:*

- Order the employer to re-instate you into your former position. This means that you would go back to working in your old position.
- Order the employer to re-employ you, either in the work in which you were employed before the dismissal or in other reasonably suitable work, or
- Order the employer to pay compensation to you.

#### **The Court may require the employer to re-instate or re-employ you unless-**

- You don't want to be re-instated or re-employed.
- A continued employment relationship would be intolerable.
- It is not reasonably practicable for the employer to re-instate or re-employ you, or
- The dismissal is unfair only because the employer did not follow a fair procedure.

If your employer did not prove that the reason for the dismissal was fair or the employer did not follow a fair procedure or both, the Commissioner may award no more than 12 months salary.

## HOW MUCH MONEY WILL I RECEIVE AS COMPENSATION

### FOR THE UNFAIR DISMISSAL

The award is calculated at the rate that the employee was paid on the date of dismissal. For example, if you earn R1000-00 per month you will be awarded no more than R12 000-00.

#### KEY:

*EMPLOYEE - a person who works for another in return for wages*

*EMPLOYER - a person or firm that employs people*

*EMPLOYMENT - having a job*

*DISMISSED - to be fired from a job*

*RE-INSTATE - restore to previous job*

*RE-EMPLOY - to be employed by your previous employer*

*COMPENSATION - a suitable payment in return for loss/damage*