WERKSMANS
ATTORNEYS



Jacques van Wyk

DIRECTOR

Phone: +27 21 405 5142 **Email:** jvanwyk@werksmans.com **Location:** Cape town

Jacques van Wyk is a Director and Team Leader specializing in employment law. He advises in the Employment Practice area. He has over 29 years' experience in all aspects of employment law and employment litigation – including corporate restructures; commercial employment transactions arising during mergers and acquisitions; executive employee terminations of employment; acting in employment law disputes and litigation at Bargaining Councils, the CCMA, Labour Court, Labour Appeal Court, High Court, Supreme Court of Appeal and private arbitrations; chairing disciplinary hearings, conducting investigations into alleged harassment in the workplace, conducting investigations into alleged corruption and fraud in the workplace, acting as employer representative in internal disciplinary or grievance procedures, drafting employment contracts, letters of appointment, employer codes and procedures, restraint ot trade agreements, acting in restraint to trade disputes. Jacques also has deep experience conducting employment law compliance audits; due diligence investigations; and occupational health and safety compliance audits.

Years of Experience: 29 years

PRACTICE AREAS

- Construction & Engineering
- Employment

EXPERTISE

Litigation & Dispute Resolution

- Employment
- Construction and Engineering

RELEVANT EXPERIENCE

Advised / Represented / Acted on behalf of:

- Astron Energy in respect of a wide-range of employment law matters and litigation, ranging from restructuring exercises to wage exemption applications to Labour Court and Labour Appeal Court litigation. A recent matter involved representing Astron Energy in respect of winning an appeal at the Labour Court applied for by a former employee of Astron based on his dismissal for using bursary funds for personal expenses.
- General Motors / Isuzu as local counsel in the due diligence relating to the sale by General Motors SA (Pty) Ltd of its Isuzu light commercial vehicle business. He undertook and oversaw the entire Employment Law and Occupational Health and Safety Due Diligence
- PRASA Metrorail in its successful challenge to the dispute raised by its former Senior Financial Manager when he challenged his dismissal at the Commission for Conciliation, Mediation and Arbitration (Cape Town). The matter related to his alleged failure to comply with the provisions of PRASA's Procurement Policy, the PFMA and directives issued by the South African National Treasury

- Environmental Resource Management Services when it embarked on a restructuring of its operations. He provided advice on all aspects of same including the process to be followed and the restructuring agreements which were concluded with certain employees in terms of which they would exit the business voluntarily. He advised on all aspects of said negotiations, participated in same and prepared all the exit agreements.
- EY in regard to one of their client's disputes with the head of its South African operations. He advised EY on and managed the performance management process and ultimate termination of employment of the employee on agreed terms. He also advised on the removal of the employee as a director of the South African operations.
- PwC in relation to the Vrystaat Munisipale Pensioenfonds ("Find") of which PwC was the curator following financial irregularities by the principal member.
- Steinhoff International Holdings on a range of employment law matters relating to the removal of executives following on accounting irregularities and the transfer of employees from client to other entities.

CAREER

- LLB, University of Cape Town, 1992
- BA, University of Cape Town, 1990
- Admitted as an Attorney, 1995
- Director, Cliffe Dekker, 1999 – 2008
- Director, ENS, 2008 – 2009
- Director, Werksmans, 2009

HIGHLIGHTS

- Ranked lawyer (Band 4) by Chambers Global | 206 | Employment
- Appointed as Adjunct Associate Professor of Law at UCT | 2024
- Ranked lawyer (Band 4) by Chambers Global | 2017 – 2022, 2024 & 2025 | Employment
- Named as a recommended lawyer by Legal 500 | 2010 – 2014, 2024 | Labour and Employment
- Named as a recommended lawyer (2008) and an endorsed lawyer (2011) in Labour and Employee Benefits by PLC Which Lawyer
- Named as an endorsed lawyer in Labour and Employee Benefits by PLC Which Lawyer
- Recognition in Corporate Governance & Compliance Practice as part of the 2020 Best Lawyers public release with Business Day

Authorships

- Appointed as Adjunct Associate Professor of Law at UCT | 2024
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- Named as an endorsed lawyer in Labour and Employee Benefits by PLC Which Lawyer
- Recognition in Corporate Governance & Compliance Practice as part of the 2020 Best Lawyers public release with Business Day
- Co-authored: Labour Law in Action – A hands on guide to the LRA (Maskew Miller Longman – ISBN 0636033325)
- Employer ordered to pay compensation for failing to adequately investigate sexual harassment complaints
- Evidential crossroads: Navigating hearsay evidence in CCMA proceedings
- Navigating the termination of conditional offers of employment: What employers need to know
- Striking a balance: The impact of strike violence on protected strikes
- New Earnings Threshold
- Employment Equity Act: Draft Regulations on Proposed Sectoral Numerical Targets
- The downside to a side hustle – moonlighting, conflicts of interest and the law
- No time for dark humour in the workplace – Load shedding is no joke!!
- Making the dies count
- Consequences of employees misrepresenting their qualifications and professional memberships
- Religious freedom and operational requirements: which one should prevail?

- Taking stock of collective misconduct
- Previous renewal does not automatically constitute an expectation of re-renewal
- Testing the reliability of breathalyser tests
- When is an instruction to work overtime unlawful and unenforceable?
- What does a medical certificate prove?
- What does it mean to give a “months’ notice?
- Employees beware: the enforceability of zero-tolerance policies in the workplace
- The transferability and enforceability of restraint of trade agreements
- Increase to BCEA earnings threshold
- An employer’s obligation to comply with their own policies
- Severance pay is not always due when dismissed for operational requirements
- The importance of witness testimony when seeking to rely on electronic evidence
- Dismissal as an appropriate sanction for workplace bullying
- A reminder to employers: Duties in relation to recovering funds misappropriated by employees
- Loadshedding – what should employers know?
- Invitation for written representations regarding the national minimum wage
- Offers of employment – don’t take risks
- Resignation terminates contract of employment and cannot be withdrawn, unless employer consents thereto
- Protest Code: Protest Action to Promote or Defend Socio-Economic Interests of Workers
- Contractors, copyright and computer programs – what should business owners know?
- Normal retirement age versus agreed retirement age
- Derivative misconduct in the workplace
- Representation and trade union membership
- National Health Act update
- The management of COVID-19 in the workplace
- Update: Prevention and Elimination of Harassment in the Workplace
- Continuously raising grievances in the workplace held to be a fair ground for dismissal
- Employees signing mutual separation agreements under duress
- Claims by employee for costs of Covid-19 tests cannot be referred to the CCMA
- Compensation for employees who experience injuries, illness or death as a result of the Covid-19 vaccine
- Dismissal for intimidation and accusations of racism against fellow employee held to be fair and appropriate