

SUPERIOR LEGAL SERVICES IN ACTION

EXCITING NEW FEATURE



All Legal Plans now offer
a Bail Benefit.
Should you be arrested,
we will go to the
police station and
pay the bail
for you, up to R3,000.

Terms and conditions apply.

Dear Know the Law

'I wanted to buy a house, but could not because I was unfairly blacklisted, I contacted Clientèle Legal, who got the judgment against my name removed. Everything was quick and easy. I am now a proud homeowner.'

Anna Buys – actual client

'I was unfairly dismissed by my employer. I went to the Clientèle Legal offices and spoke to one of their lawyers. The matter went to the CCMA. I was reinstated the next day. Thank you Clientèle Legal.'

Samuel Chabalala – actual client

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Clientèle Legal is a division of Clientèle General Insurance Limited, an authorised financial services provider and registered insurer, FSP 34655.

DISCLAIMER: This information is published for general information and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation.

KNOW the LAW

The superior newsletter from Clientèle Legal

TRUE STORY



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ASSAULTED? YOU NEED A LAWYER!

“It happened so suddenly,” explains Tshepo Mosane, a Clientèle Legal client. **“One moment, I had a verbal disagreement with a client, the next moment he started getting aggressive. He threw his cell phone at me. I could see he was turning violent and defended myself. It turned into a brawl.”**

The impromptu confrontation led to criminal charges of assault. That is when Mosane called his lawyer at Clientèle Legal. “I was frightened and confused. I knew I needed help,” explains Mosane. “I knew Clientèle Legal would fight for me.”

Chanel Oliphant from Clientèle Legal warns that assault often needs a very small spark to cause a large legal fire.

Assault consists of unlawfully and intentionally applying force to the person of another, or inspiring belief in the other that force is immediately to be applied to him. Simply put, it means that there doesn't have to be physical contact for assault, the mere threat of assault would also be sufficient. In our example, even if the client did not physically throw the cell phone and actual blows were not exchanged, assault charges could still have been laid.

However, in the event of assault you have to remember that the term ‘assault’ can apply to a variety of behaviours.

It is not always unlawful to exert force. For instance, members of the Police Services may use reasonable force to overcome resistance to a lawful arrest. Similarly, participants in lawful sporting events such as wrestling or boxing may use force against an opponent. A person may also use force in self-defense to ward off an attacker.

Assault also does not have to be directly physical for it to qualify as assault. For instance, if you derail a train and it causes injury to passengers, it qualifies as assault. Similarly, placing obstacles in the road, causing cars to have an accident is assault. Or, giving alcohol to a child until he or she is semiconscious is also assault.

“Mr Mosane’s case was a common assault case. We represented him in court and the prosecutor decided the case did not merit further legal action,” Oliphant explains. “I was very relieved,” says Mr Mosane. “The outcome could have been much worse. I was impressed by the professional service from Clientèle Legal.”

“Violence, or the threat of violence is never a solution,” cautions Oliphant, “Trying to solve problems with violence might land you in jail – and you might not have solved the original problem! Let your lawyer handle the matter for you.”



Lawyer's Tip

**‘Violence is not a solution.
Get justice by calling your lawyer.’**



Chanel Oliphant – Legal Advisor



**Clientèle
LEGAL**

Your Questions Answered

Email your questions to:
knowthelaw@clientelelegal.co.za

Q HOW AM I AFFECTED BY NEW LAWS RELATING TO FIXED TERM EMPLOYMENT CONTRACTS?



A A fixed term employment contract is a contract of employment which has a start date and an end date. The new amendments as per the Labour Relations Amendment Act of 2014, effective from 1 January 2015 will give new rights to many employees and affect fixed term contracts. Before the amendments, fixed term contracts were not limited by law, which means the contract could run for any period of time agreed between the employee and the employer.

As of January, fixed term contracts may not be longer than three months, unless two conditions are met, namely:

1. The nature of the work for which the employee is employed is of a limited or definite duration, and
2. The employer can demonstrate a justifiable reason for fixing the term of the contract.

This means employees now have more legal protection. Employers can no longer just keep renewing 3 month contracts, for instance. Employers will be liable to offer fixed term contractors the same benefits and opportunities as full time employees. Part-time employees who have worked for less than 3 months are not affected by these changes.

Q WHEN CAN I LEGALLY ACCUSE MY NEIGHBOUR OF BEING A NUISANCE?



A Nuisance is a legal term describing the use of land in a way that causes unreasonable discomfort or harm to your neighbours.

There can be many forms of nuisance, from loud noises, smoke or fumes, odours or animals. For instance, a loud vuvuzela blown at night that exceeds a reasonable level of tolerance may become unlawful and thus actionable.

If the nuisance affects public space or a large number of people, you may be causing a public nuisance. Your local council may take action against you in this regard or restrict your activities or prosecute you.

A distinction must also be made between freestanding properties and properties that form part of a complex where body corporate rules will apply.

Specific rules in terms of noise levels will differ depending on the area and zoning of your property. If you feel that your neighbour is being a nuisance, you should complain to your local municipality. To stay out of trouble, try to be the type of neighbour you would want as a neighbour.

THE LIGHTER SIDE

WEIRD LAWS

In Alabama, USA, it is illegal for a driver to be blindfolded while driving a vehicle.



Heard in Court

"Can you describe the individual?"

"He was about medium height and had a beard."

"Was this a male, or a female?"

KNOW YOUR RIGHTS



LEGAL ADVICE WHEN BUYING A HOUSE

Home is where the heart is. It can also be where the legal problems are. Buying or selling a home is one of the biggest and most important decisions you can make in your life; financially, emotionally and legally. For many people, it is a 10 to 20 year commitment. We asked Caviyn Bemaya from Clientèle Legal to give us their top tips when buying a house.

"The most important tip Clientèle can give people is to do their homework. Ask questions and be brutally honest with yourself when it comes to affordability. Ask yourself whether you can really afford it." Bemaya says people often get very excited and starry eyed when shopping for houses, but forget that it is not only the purchase price that needs to be taken into consideration. There are several "hidden costs", such as transfer fees, bond registration fees and bank initiation fees that you need to carefully plan for before purchasing a house. If you have an existing bond you will also be responsible for the bond cancellation fees to have that bond cancelled. "It is also very important to check the history of the house and the area and whether it will suit your lifestyle. Price isn't everything," explains Bemaya.

Clientèle Legal also advises house shoppers to spend sufficient time to allow for inspections and testing. Make sure the alarm system actually works. Is the plumbing and the electricity up to scratch and working properly? Be warned that the property assessment and the inspection is not the same thing. The assessment is merely to put a monetary value judgment on the property. The inspection is done by professionals who double check everything, from water leaks, cracks in the foundation etc. It is worth every cent.

"Very importantly – get everything in writing," says Bemaya. "People become eager, agents might take advantage of this and buyers often take an agreement on its word. Calm down, get a lawyer to draft you a contract and go over it carefully. This will protect you from nasty surprises further along the line. Bemaya says home buyers can take the conveyancing process for granted and that this can

end up wasting time and money and cause unnecessary heartache. "Only an attorney who is a registered conveyancer may attend to the registration of the immovable property. Clientèle Legal will assist in putting you in touch with the relevant specialists." For the purchase and sale agreement to be legally sound, it has to be a written contract, a verbal contract of sale of immovable property is unenforceable. It also has to specify the seller and the purchaser clearly and must be signed by the seller and the purchaser.

The method of payment has to be clear and any special conditions pertaining to the property, as well as the date of occupation must be incorporated into the offer of purchase. Only once both parties have signed, does it become a Deed of Sale. Bemaya warns that the process might take some time and the home buyers should be patient. The Deed of Sale will go to the Deeds Office with other necessary documents where it is lodged before ownership formally passes to the buyer upon registration. Most home buyers will describe that feeling of accomplishment and ownership when they finally receive the Title Deed to their new home. We hope these tips were helpful. Happy house hunting!

TOP TIPS WHEN BUYING A HOUSE

1. **BE HONEST WITH YOURSELF**
Why are doing this? Can you really afford it?
2. **DO YOUR HOMEWORK**
What is the history of the house? Will it suit your lifestyle?
3. **DO THE INSPECTIONS PROPERLY**
Get professionals to test the alarms, electricity and plumbing.
4. **GET EVERYTHING IN WRITING**
The purchase agreement will only be valid if it is in writing and signed by both parties.