

Professor BIRGIT KUSCHKE

Position, academic and professional qualifications

Prof Birgit Kuschke is a professor in the Department of Private Law, University of Pretoria. She obtained the degrees BLC (*cum laude*) in 1986 and LLB (*cum laude*) in 1988 from the University of Pretoria. She obtained the LLD-degree in 2009 at the University of South Africa for her thesis entitled "Insurance against Damage caused by Pollution." She is also an Attorney, Notary and Conveyancer of the High Court of South Africa.

Academic and professional experience

Prof Kuschke completed her attorney's articles in 1991 with VDT Attorneys in Pretoria. She was admitted as an Attorney, Notary and Conveyancer of the High Court of South Africa in 1994 and practised for her own account from 1994 until 2005 in association with VDT Attorneys in Pretoria, specialising in insurance, engineering, construction and professional services contracts.

She was appointed as lecturer in the Department of Mercantile Law in 1991, and as senior lecturer in that Department in 1993. In 1999 Prof Kuschke also assisted as Commercial Manager of the I-Commerce division of Dimension Data until 2000. She was appointed as senior lecturer in the Department of Private Law in 2000, and was promoted to associate professor on 1 January 2011.

Birgit has been a member of the International Association for Insurance Law since 1998 and has been involved in various research projects relating to the impact of risks posed by Y2K, electromagnetic fields, environmental pollution, climate change, genetically modified organisms and the effect of genetic testing on the insurance industry. She currently serves as a Councillor on the Presidential Council of the International Association for Insurance Law, and is a member of two working groups within the Association. She still runs a limited opinion practice with the focus on software engineering and other commercial matters.

Teaching activities

Prof Kuschke lectures the Law of Contract modules presented in the Faculty, on both a undergraduate: KTR 210 (Law of Contract) and KTR 220 (Law of Contract), and post-graduate: KTR 810 (*Capita Selecta* of the General Principles of the Law of Contract); KTR 822/GPC 801 (General Principles of the Drafting of Contracts) and ILC 803 (Legal Aspects of Project Management), levels. She is currently the promotor of one doctoral student and study leader for LLM-students for the LLM (Research). She is also the course leader and coordinator for the LLM (Law of Contract) by coursework. Prior to 2000 she also lectured extensively in insurance law and on aspects of general commercial law with a focus on tax law and consumer protection law.

Prof Kuschke designed and implemented the first subject within the Law Faculty to be presented electronically via the internet. She still lectures this subject called Legal Aspects of Project Management (ILC 803) that is presented electronically via Click-UP (WebCT) for the Master's Programme in Project Management (MPM) presented in the Faculty of Engineering, Built Environment and Information Technology of the University of Pretoria.

In addition to her academic responsibilities, Prof Kuschke has lectured extensively since 1997 at CE@UP (Continuing Education at the University of Pretoria) for the Certificate Programme for Project Management (PPM).

Birgit is also an accredited Poslec SETA Education, Training and Development Practitioner, and offers the course on Drafting of Contracts at various Law Schools for candidate attorneys under the auspices of the Law Society of South Africa.

Representative publications

Books

1. Co-author of *The Law of Contract in South Africa/Kontraktereg in Suid-Afrika* Hutchison, Pretorius & others (Oxford University Press)
2. Co-author and translator of *Commercial Law/Kommersiële Reg Nagel et al* (Lexis Nexis Butterworths)
3. Co-author and co-translator of *Business Law/Besigheidsreg Nagel et al* (Lexis Nexis Butterworths)
4. Co-author of 'Project Management: a multi-disciplinary guide' Steyn *et al* (FPM Publishers).
5. Contributor to *Professional Software Code Escrow: A Best Practice Guide for South African Directors and Officers*: Escrow Europe (Pty) Ltd (published by the Institute for Directors in South Africa).
6. Contributor to *Gaffney's Business and Legal Documents Jones W et al* (Gaffney Group Publishers)
7. Author of *Contracts and Negotiations* 1991 (UNISA Publishers) written for the UNISA School for Business Leadership ('SBL') for the Certificate in Project Management.

Publications in peer-reviewed or refereed journals

Kuschke B "The Constitutionality of Time Bar Clauses in Insurance Contracts: *Barkhuizen v Napier*" 2008(2) *De Jure* 463

Kuschke B "Access to Genetic Information and the Insurer's Duty of Genetic Data Protection" 2007(2) *De Jure* 305

Kuschke B “Depositum and Escrow: Their current application in computer source code in South African law” 2003(2) *De Jure* 278

Kuschke B “Insurance of Damage caused by Pollution” 2000(3) *TSAR* 494

Kuschke B “Standing time clauses – where do we stand?” 2002 *THRHR* 638

Boraine A & Kuschke B “Behuisingskema’s vir Afgetrede Persone(*Retirement Schemes for Retired Persons*) ” 1998(1) *De Jure*

Areas of Specialisation

Insurance law; the law regarding professional services (especially general engineering and construction contracts); general law of contract; law of delict; environmental law and commercial aspects relating to project management.

Academic and professional memberships

Prof Kuschke serves as a councillor on the Presidential Council of the International Association for Insurance Law (*Association Internationale du Droit Assurances*, also known as ‘AIDA’). She also serves as a member of two of its working parties, namely on the Working Party on Pollution, Products and New Technologies since 1998, and since 2010 also of the Life, Pension and Collective Insurance Working Party.

She is on the roll of Attorneys, Notaries and Conveyancers of the Law Society of the Northern Provinces, and is also a member of the Society of Law Teachers of Southern Africa (SLTSA).

International Papers and Reports

Birgit presented papers and contributions at the following world congresses and other national and international conferences:

1. National Reporter for South Africa on “The Effect of Climate Change on the Insurance Industry” for the International Association for Insurance Law World Congress (Paris 2010);
2. National Reporter for South Africa on “Mandatory Insurance: legal and economic myths and realities” for the International Association for Insurance Law World Congress (Paris 2010);
3. Contribution on “Proposed Rules for Group Personal Insurance Schemes” at the Meeting of the Life, Pension and Collective Insurance Working Party held at the World Congress of the International Association for Insurance Law (Paris 2010);
4. National Reporter for South Africa on “The Influence of Scientific and Technological Innovations on Personal Insurance” at the World Conference of the International Association for Insurance Law (Buenos Aires 2006);

5. National Reporter for South Africa on “Internet Service Providers, in particular, Certification Service Providers (Study on Liability and Insurance: Analysis of Contingency Plans, Precautionary and Mitigating Measures included or to be included in the Insurance Policy)” at the Meeting of the Working Group on New Technologies, Prevention and Insurance, held at the World Congress of the International Association for Insurance Law (Buenos Aires 2006);
6. Contribution on “E-trade Risks in the context of Insurance” at the Session of the Working Party on Pollution, Products and New Technologies during the World Congress of the International Association for Insurance Law (New York 2002);
7. National Reporter for South Africa on “Millenium Risk: Y2K Liability and its Impact on the Insurance Industry” at the Meeting of the Working Party on New Technologies, Prevention and Insurance of the International Association for Insurance Law (Poland 1999).

She also presented a paper at the South African Insurance Law Association: Annual meeting on “Insurance against Damage caused by Pollution” in 1998;

At a conference held by the Universities Legal Practitioner’s Forum in October 2008, she presented a paper on “Update on the Recent Developments in the Law of Contract”. She was the guest speaker on “Latin in modern society” at the Certificate Presentation Ceremony for Legal Latin in 2008.

Other

Prof Kuschke regularly acts as external examiner for, and guest lecturer at various universities on both a pre-graduate and post-graduate level. She has served on the editorial board of *De Jure*, and has refereed numerous publications for various academic journals. She is also an advisor for the Legal Aid Clinic of the University of Pretoria.

She is the Guardian Lecturer of Law House, the representative student body of the Law Faculty.

Research awards and prizes

She was awarded the prize for Law Lecturer of the year in 2004; 2005, 2007 and 2010, and was runner-up in 2003. The Dean’s prize for designing and implementing the first subject in law to be presented electronically for distance education at the University of Pretoria was awarded in 2001.

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