

Keagan Hyslop

Associate Designate



Keagan Hyslop is an Associate Designate in our Corporate & Commercial practice, with a focus on mergers and acquisitions, general commercial law, and company law.

About Keagan

After graduating from the University of Johannesburg with a BCom (Law) in 2019 and a LLB in 2021, Keagan joined Cliffe Dekker Hofmeyr in 2022 as a candidate attorney. As a candidate attorney, Keagan spent time in our Dispute Resolution, Employment Law and Corporate & Commercial practices. In 2024, Keagan was retained as an associate in our Corporate & Commercial practice.

Credentials

Education

- BCom (Law), University of Johannesburg (Cum Laude)
- LLB, University of Johannesburg (Cum Laude)
- Awaiting admission as an attorney in 2024

Experience

- Drafting M&A transaction agreements and documents; transaction management; legal due diligence investigations; Companies Tribunal applications; and drafting opinions on the Companies Act No 71 of 2008 and the law of contract.
- Corporate structuring, which includes drafting and preparing memoranda of incorporation and shareholders agreements; onshore corporate structuring for offshore clients; and private individual corporate structuring.
- Drafting general commercial agreements including service level, services and management agreements, collaboration and other relationship agreements, security agreements, asset-for-share agreements, and supply agreements.

News

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[Keagan on LinkedIn](#)

Expertise

[Corporate & Commercial Law](#)

Location

Johannesburg

Language

English

Know your limitations: Lessons from English case law on limitations of liability

Managing risk and allocating liability forms the focal (and sticking) point of many agreements, whether transactional (e.g. a sale) or relationship-based (e.g. a services agreement). A limitation of liability clause may be used to limit a party's liability in numerous ways, whether by time, amount or nature. Not only should a limitation of liability be carefully negotiated – it should also be carefully worded to ensure its interpretation aligns with the parties' agreed principles. The English case of *Drax Energy Solutions Limited v Wipro Limited* EWHC 1342 (TCC) highlighted the importance of the wording used in a limitation of liability. The similarities between the rules of interpretation in England and South Africa allow significant lessons to be gleaned from the case.

Directors' duties as they approach the abyss

A director is required at all times to act in the best interests of the company. "Company" in this context, is widely considered to be the present and future shareholders of the company, collectively. Essentially, for as long as a company operates as a going concern, a director must act in the interests of the general body of shareholders. However, the King IV Code adopts a stakeholder-inclusive approach to company governance, being a balancing of the needs, interests and expectations of material stakeholders in the best interests of the company. While the interests of the collective shareholders retain primacy, the interests of other stakeholders such as creditors have also become relevant in determining the best interests of the company.

If you forgot, then it was not that important: Missing annexures and tacit terms in contracts

It is no surprise that in the fast-paced commercial world parties may miss an annexure or omit a term when concluding and executing contracts. This raises the question of how a court will interpret a contract where a party suddenly alleges that the missing annexure renders it uncertain and void, or that the parties intended for a tacit term to be imputed into it? These questions were answered in the Supreme Court of Appeal (SCA) judgment of *G Phadziri & Sons Proprietary Limited v Do Light Transport Proprietary Limited and Another* 20 February 2023 (765/2021).

An employer who is responsible for setting the rules in the workplace, must also abide by them

That is the lesson from the Labour Court's ruling in *Mahonono v National Heritage Council and Others* (J742/2022) 2022 ZALCJHB 188 (18 July 2022). In the workplace employers assume the responsibility of putting policies in place to regulate the relations between that employer and its employees. However, what happens when the employer decides not to follow the provisions of its own policies?

Prescription: Fairness trumps legal certainty

Prescription of debts is generally absolute in its impact, and can be said to have a "guillotine effect" as a claim for a debt is unenforceable once it has prescribed. The rationale behind prescription is to ensure the lapsing of claims which are not actively pursued by legal process to ensure legal certainty. There are, however, situations where prescriptive periods are extended under statute, and very recently the Constitutional Court has done the same, expressly to avoid unfairness.

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