



Ashley Pillay

Director

Ashley Pillay is a Director in the Dispute Resolution practice area, who operates primarily in the Public Sector, focusing on constitutional, administrative and regulatory law. He has also gained experience in dealing with the interaction between corporate and commercial law, on the one hand, and public law, on the other.

Practice areas


Dispute Resolution


Sectors

Administrative & Public Law
Regulatory

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 Cape Town

Career

Ashley commenced his career as a Candidate Attorney at Cliffe Dekker Hofmeyr in 2011 and completed his articles in 2012. Thereafter he clerked for Justices Sisi Khampepe and Nonkosi Mhlantla at the Constitutional Court from 2013 until 2014. He re-joined Cliffe Dekker Hofmeyr in April 2014 as a practitioner in the Public Sector, where he now practises as a Director.

Experience

Ashley has experience in employment and commercial law, though the main focus of his practice is on providing advice and undertaking litigation in public-sector matters. He often deals with matters concerning the interaction between the private and public sectors.

Experience in employment and commercial law

- Drafting advisory opinions on employers' obligations under South African labour law.
- Chairing disciplinary hearings.
- Undertaking investigations and drafting reports in relation to employment processes and alleged irregularities in corporate restructuring.
- Advising on directors' duties.

Experience in the public sector: advisory

- Advising in relation to the Constitution, the public finance statutes (the PFMA and the MFMA), the Division of Revenue statutes and the associated regulatory frameworks.
- Advising in relation to the Municipal Systems Act, the Municipal Structures Act, the Municipal Property Rates Act and the associated regulatory frameworks.
- Advising in relation to the PPPFA, the associated regulatory framework, the procurement of goods and services, the disposal of public assets and the corporate structure of public bodies (South Africa and Namibia).
- Advising in relation to the Department of Energy's Renewable Energy Independent Power Producer Procurement Programme.
- Advising in relation to planning and land-use applications.
- Advising in relation to the Promotion of Administrative Justice Act, the Promotion of Access to Information Act, the Mineral and Petroleum Resources Development Act, the Central Energy Fund Act, the Pharmacy Act, the Medical Schemes Act, the Medicines and Related Substances Act, the Higher Education Act, the Housing Act, the Protected Areas Act, the Lotteries Act, the Estate Agency Affairs Act, the Prescription Act, the Intergovernmental Relations Framework Act and the associated regulatory frameworks.
- Advising on the public-law implications of restructuring public entities.
- Advising departments, municipalities and public entities on contractual relationships with service providers.
- Advising private entities on interactions and relations with government departments and public entities, and on operating within highly regulated industries (including advice on contractual interpretation).
- Advising municipalities on risk-management, including statutory, contractual and delictual liability.

Experience in the public sector: investigative and reporting

- Conducting investigations on behalf of, and compiling reports for, municipalities and parastatals in relation to allegedly irregular appointments and suspected procurement deficiencies.

Experience in the public sector: administrative and internal procedures

- Litigating internal review and appeal proceedings in the pharmaceuticals and lottery industries.
- Advising on the processing of disputes in accordance with the Intergovernmental Relations Framework Act.
- Applying for, and defending against applications for, access to information under the PAIA.
- Assisting with the prosecution of alleged fronting during procurement processes.
- Advising on, and drafting reasons in respect of, municipal planning decisions and appeals.
- Drafting submissions on proposed legislation.
- Drafting and reviewing policies.

Experience in the public sector: litigation

- Initiating and defending reviews and other applications in the aviation, broadcasting, defence, development / planning, energy, film, fishing, gambling, health, local government, mining, petroleum, pharmaceutical, property, tertiary education and transport sectors.

Notable highlights

- Advising NSFAS on prescription.
- Advising the University of the Western Cape in relation to institutional governance.
- Advising service providers on procurement in the education sector.
- Advising Investec Bank Ltd and its subsidiaries on select aspects of the MFMA and associated procurement-law instruments.
- Advising the City of Cape Town in relation to its largest land acquisition to date.
- Advising Stellenbosch Municipality in relation to the allocation of subsidised housing, liability for flood damage and various internal investigations.
- Advising PetroSA, the Petroleum Agency, the PPECB, SAA, the Knysna Municipality and the Biovac Institute in relation to operating, procuring goods and services, disposing of assets and obtaining funding within highly regulated environments (including compliance with the Constitution, the PFMA and the MFMA, the Treasury Regulations, the Municipal Supply Chain Management Regulations and the Municipal Asset Transfer Regulations, the PPPFA and the Preferential Procurement Regulations).
- Advising the Table Mountain Aerial Cableway Company in relation to the conclusion of a new concession agreement for the operation of the Table Mountain Cableway.
- Advising a service-provider on the procurement of corvettes by Armscor.
- Advising on the importation of new medical devices into South Africa.
- Assisting the O'Regan Commission of Inquiry in a challenge to its operations brought by the Minister of Police.
- Assisting the Centre for Constitutional Rights in a challenge to the proceedings of the Judicial Service Commission and the non-appointment of eligible candidates for judicial office.
- Assisting the City of Cape Town in a dispute regarding the roll-out of the MyCiTi bus rapid transit system.
- Defending various review applications on behalf of the City of Cape Town in relation to its land-use decisions and building-plan approvals.
- Prosecuting various applications on behalf of the City of Cape Town to enforce legislation governing planning, land-use and building regulations.
- Assisting the Knysna Municipality in a dispute regarding its decision to grant planning approval for the erection of a mosque.
- Assisting MediClinic in various licence disputes.

- Assisting PetroSA and the Knysna Municipality in various disputes regarding their procurement decisions.
- Assisting Maccsand CC in its challenge to the jurisdiction of the Land Claims Court.
- Assisting REDISA in its challenge to the constitutionality of the Broadcasting Complaints Commission's Procedural Rules.
- Assisting SAA Technical in defending a challenge to its procurement of aircraft components by Air France.
- Assisting the Anglican Church in defending various challenges to an ecclesiastical trial process.
- Drafting submissions to Parliament on behalf of the South African Human Rights Commission in relation to the Protection of State Information Bill (the so-called "*Secrecy Bill*").
- Preparing the first draft of the City of Cape Town's policy regarding access to forensic reports.
- Litigating and defending various appeals under the Pharmacy Act on behalf of Clicks Retailers (Pty) Ltd.
- Defending a review challenging Clicks Retailers (Pty) Ltd's community pharmacy licences.
- Launching a review challenging the regulation of complementary medicines and health supplements under the Medicines and Related Substances Act.
- Initiating a challenge to the National Department of Health's regulation of the exportation of medical substances and medical devices.
- Initiating a challenge to the unlawful disposal of South Africa's strategic fuel stock.

Education

- BCom (Politics, Philosophy and Economics), University of Cape Town.
- LLB *magna cum laude*, University of Cape Town.
- Year of Admission as an Attorney: 2014
- Enrolled with the Legal Practice Council

Memberships

- Administrative Justice Association of South Africa.

Languages

English