

26 MARCH 2020

DISPUTE RESOLUTION ALERT

IN THIS ISSUE

COVID-19

Can you cancel a contract because of COVID-19?

Yes you can if it is objectively impossible to perform your contractual obligations and even in the absence of a *force majeure* clause in the contract.

Can you cancel a contract because of COVID-19?

Claiming impossibility or force majeure incorrectly could be a breach of contract and could give rise to a damages claim against you.

Yes you can if it is objectively impossible to perform your contractual obligations and even in the absence of a *force majeure* clause in the contract. Importantly, each situation will depend on its own facts and the wording of the contract. Also, in the COVID-19 crisis specifically, developments must be considered carefully before concluding that there is an impossibility of performance or the triggering of a *force majeure* clause. Claiming impossibility or *force majeure* incorrectly could be a breach of contract and could give rise to a damages claim against you. In particular

any impossibility of performance must be absolute and it is any event, including COVID-19 and its consequences, that could bring about an impossibility or *force majeure* provided it is unforeseeable with reasonable foresight, unavoidable with reasonable care and not the fault of either party.

A *force majeure* clause in a contract will take precedence over the common law and care must be taken to comply with any agreed time limits or process requirements set out in the contract.



CDH is a Level 1 BEE contributor – our clients will benefit by virtue of the recognition of 135% of their legal services spend with our firm for purposes of their own BEE scorecards.

PROTECTION OF INVESTMENT IN AFRICA

20–22 April 2020

Presented by the Faculty of Law, University of Pretoria in collaboration with Cliffe Dekker Hofmeyr (CDH).

The Protection of Investment in Africa is a first-of-its-kind executive course focused on unpacking the fundamentals of investment law and arbitration.

The course, presented by leading international and African experts, will be delivered through a hybrid teaching model, incorporating a combination of both online content and a three-day contact session.

POSTPONED UNTIL FURTHER NOTICE

Please note that we will reschedule the event. A new date will be announced in due course.

The course will be delivered through a hybrid teaching model, incorporating a combination of both online content and a three-day contact session.

 **CLICK HERE to access the course registration details and fees, presenter profiles, course content and programme.**



CDH HAS BECOME THE EXCLUSIVE MEMBER FIRM IN AFRICA FOR THE:

Insuralex Global Insurance Lawyers Group
(the world's leading insurance and reinsurance law firm network).

[CLICK HERE TO READ MORE](#)



CHAMBERS GLOBAL 2017 - 2020 ranked our Dispute Resolution practice in Band 1: Dispute Resolution.

CHAMBERS GLOBAL 2018 - 2020 ranked our Dispute Resolution practice in Band 2: Insurance.

CHAMBERS GLOBAL 2020 ranked our Public Procurement sector in Band 2: Public Procurement.

CHAMBERS GLOBAL 2017 - 2020 ranked our Dispute Resolution practice in Band 2: Restructuring/Insolvency.

CHAMBERS GLOBAL 2020 ranked our Corporate Investigations sector in Band 3: Corporate Investigations.

Tim Fletcher ranked by CHAMBERS GLOBAL 2019 - 2020 in Band 3: Dispute Resolution.

Pieter Conradie ranked by CHAMBERS GLOBAL 2019 - 2020 as Senior Statespeople: Dispute Resolution.

Julian Jones ranked by CHAMBERS GLOBAL 2017 - 2020 in Band 3: Restructuring/Insolvency.

Tobie Jordaan ranked by CHAMBERS GLOBAL 2020 as an up and coming Restructuring/Insolvency lawyer.

Jonathan Witts-Hewinson ranked by CHAMBERS GLOBAL 2017 - 2020 in Band 2: Dispute Resolution.

Willie van Wyk ranked by CHAMBERS GLOBAL 2020 in Band 3: Insurance.



OUR TEAM

For more information about our Dispute Resolution practice and services, please contact:



Tim Fletcher
National Practice Head
Director
T +27 (0)11 562 1061
E tim.fletcher@cdhlegal.com



Thabile Fuhrmann
Chairperson
Director
T +27 (0)11 562 1331
E thabile.fuhrmann@cdhlegal.com

Timothy Baker
Director
T +27 (0)21 481 6308
E timothy.baker@cdhlegal.com

Eugene Bester
Director
T +27 (0)11 562 1173
E eugene.bester@cdhlegal.com

Jackwell Feris
Director
T +27 (0)11 562 1825
E jackwell.feris@cdhlegal.com

Anja Hofmeyr
Director
T +27 (0)11 562 1129
E anja.hofmeyr@cdhlegal.com

Julian Jones
Director
T +27 (0)11 562 1189
E julian.jones@cdhlegal.com

Tobie Jordaan
Director
T +27 (0)11 562 1356
E tobie.jordaan@cdhlegal.com

Corné Lewis
Director
T +27 (0)11 562 1042
E corne.lewis@cdhlegal.com

Richard Marcus
Director
T +27 (0)21 481 6396
E richard.marcus@cdhlegal.com

Burton Meyer
Director
T +27 (0)11 562 1056
E burton.meyer@cdhlegal.com

Rishaban Moodley
Director
T +27 (0)11 562 1666
E rishaban.moodley@cdhlegal.com

Mongezi Mpahlwa
Director
T +27 (0)11 562 1476
E mongezi.mpahlwa@cdhlegal.com

Kgosi Nkaiseng
Director
T +27 (0)11 562 1864
E kgosi.nkaiseng@cdhlegal.com

Byron O'Connor
Director
T +27 (0)11 562 1140
E byron.oconnor@cdhlegal.com

Lucinde Rhoodie
Director
T +27 (0)21 405 6080
E lucinde.rhodie@cdhlegal.com

Belinda Scriba
Director
T +27 (0)21 405 6139
E belinda.scriba@cdhlegal.com

Tim Smit
Director
T +27 (0)11 562 1085
E tim.smit@cdhlegal.com

Willie van Wyk
Director
T +27 (0)11 562 1057
E willie.vanwyk@cdhlegal.com

Joe Whittle
Director
T +27 (0)11 562 1138
E joe.whittle@cdhlegal.com

Roy Barendse
Executive Consultant
T +27 (0)21 405 6177
E roy.barendse@cdhlegal.com

Pieter Conradie
Executive Consultant
T +27 (0)11 562 1071
E pieter.conradie@cdhlegal.com

Willem Janse van Rensburg
Executive Consultant
T +27 (0)11 562 1110
E willem.jansevanrensburg@cdhlegal.com

Nick Muller
Executive Consultant
T +27 (0)21 481 6385
E nick.muller@cdhlegal.com

Jonathan Witts-Hewinson
Executive Consultant
T +27 (0)11 562 1146
E witts@cdhlegal.com

BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 1 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdh Stellenbosch@cdhlegal.com

©2020 8757 MAR

