

Administrative Law in South Africa

By Cora Hoexter
Cape Town: Juta Law
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The rapid growth in administrative law over the past 60 years or so should surprise no practising lawyer. Coincidental with the rise in executive power in the state, some means of regulating the exercise of that power must be developed. Judicial review of administrative action through the superior courts is our colonial legacy; the right to administrative justice in s 33 of the Constitution and its companion the Promotion of Administrative Justice Act 3 of 2000 (PAJA) provide the post-apartheid infrastructure for administrative review. Good academic writing assists both students and practitioners of the law, and Marinus Wiechers was a pioneer in the field through his *Administratiefreg* (Durban: LexisNexis Butterworths 1973), while Lawrence Baxter's *Administrative Law* (Cape Town: Juta 1984) was the first comprehensive treatment of the subject in this country, and is still highly sought

after by those who specialise in this field.

Professor Cora Hoexter's *Administrative Law in South Africa* (Cape Town: Juta 2007) has quickly come to be regarded as the 'Baxter' of the constitutional era, cited frequently in the courts, and leading the way in the development of concepts key to the success of this field of law. The high level of activity in the courts in response to applications to review the exercise of public power has necessitated a second edition of Hoexter's excellent work, published in 2012.

A few general remarks. I was a great admirer of the first edition, prescribing it for my compulsory course as part of the University of Cape Town's LLB degree, but, in my view, the second edition surpasses the high quality of the first. Professor Hoexter writes clearly and succinctly, yet without sacrificing any necessary point of detail. She states her views boldly, without diminishing the point of view that she may be criticising. For me, this is the ideal, comprehensive treatment of a complex subject in South African law: It is nothing short of magisterial.

Administrative law is a fast-developing field of law, such that few have the opportunity of keeping up with developments. Professor Hoexter's work is



completely up to date and includes judgments in the courts a mere six weeks prior to publication - an incredible feat. There is much new material in this second edition, based on a number of indicators, including the increased number of pages (despite the publisher having squeezed more into the margins of every page), the substantial increase in the length of the Table of Cases, a doubling in extent of the very useful index, and many new sections of text that focus on cases decided in the last five years, and commentary on these.

Every reader will have their own 'most-resorted-to' section of the book: Practitioners are likely to find the chapters on the definition of 'administrative action' (one of the most intractable issues facing judges), on standing and on remedies and procedures particularly attractive.

The treatment of the grounds of review of lawfulness, reasonableness and procedural fairness are outstanding, while I found the introductory chapters (which deal with, among other things, the development of judicial review and its intimate relationship to our constitutional democracy) the most absorbing. The intriguing opening up of a further avenue for review (being the principle of legality, founded in s 1(c) of the Constitution) of 'executive action', and the consideration of forms of administrative review that are independent of the courts (such as access to information and the Chap-

ter Nine institutions) arise throughout the pages of this outstanding book.

In sum, no one concerned in any way with the relationship between the courts and the regulation of public power can afford to ignore this book. It provides a comprehensive gateway to, as well as challenges to those who already possess expertise in, this area of the law. I cannot recommend it more strongly.

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