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Shareholder Agreements, the Corporate Constitution and the Oppression Remedy –

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Shareholder agreements have nowadays become highly popular, particularly in proprietary companies and in joint venture arrangements. They usually seek to formalise relations and understandings between shareholders on such key issues as involvement in management, the power balance including rights of founders and minorities, veto rights, buyout and succession rights, pre-emption rights on new share issues and dispute resolution. In this article, the author will focus on their effects on the oppression remedy where a shareholders' agreement may provide a factual matrix of "what was in contemplation of the parties" when incorporating the entity, a notion that has also found expression in the debated concept of "legitimate expectations" about the operations of the company including particularly, the expectation of participation in its management. 308

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