

JW Consultants' Summary of the Community Schemes Ombud Service Consolidated Practice Directives 1 of 2025.

The Community Schemes Ombud Service (CSOS) has recently released their draft Consolidated Practice Directive for public comments.

While we will not discuss every provision or clause in detail, we would like to highlight the most important clauses applicable to all Community Schemes and Executive Managing Agents. These key updates are essential for ensuring compliance and understanding the implications of Community Scheme operations.

1. Registrations

The following types of Community Schemes are mandated to register with the CSOS:

- Sectional Title Schemes
- Share Block Companies
- Home or Property Owners' Associations
- Housing Schemes for Retired Persons
- Housing Co-operatives

2. Will CSOS issue fines for non-compliant schemes?

Yes, the CSOS may impose fines for non-compliance by Community Schemes. According to the regulations, intentional non-compliance with the CSOS Act or failure to inform CSOS of non-compliance can lead to enforcement action, which may include penalties or other enforcement tools as stated in section 34 of the CSOS Act.

Additionally, any person or Community Scheme that is non-compliant may be subjected to penalties as outlined in the CSOS Act.

3. The CSOS has several methods of enforcement available to address non-compliance with the CSOS Act and related regulations.

- **Intervention Action:** If non-compliance is suspected, CSOS can issue a verification letter to the Community Scheme to address the non-compliance issue, providing an opportunity to rectify it.
- **Verification and Compliance Action:** CSOS fieldworkers may conduct door-to-door verification measures, recording details of those who refuse access for compliance checks.
- **Requests for Information:** CSOS can request relevant information from Community Schemes suspected of contravening the law. Failure to provide this information may lead to fines or imprisonment.
- **Statutory Notices:** CSOS can issue statutory notices for specific contraventions, requiring compliance within a specified timeframe.
- **Penalties and Sanctions:** CSOS may impose penalties or other enforcement tools as outlined in section 34 of the CSOS Act for various contraventions.
- **Legal Action:** In cases of severe non-compliance, CSOS may refer matters to law enforcement or pursue legal action to ensure compliance.

4. Every Community Scheme requires a popia/paia manual.

Yes, every Community Scheme is required to have a manual developed and maintained in accordance with the provisions of the Protection of Personal Information Act (POPIA) and the Promotion of Access to Information Act (PAIA).

The Information Officer of the Community Scheme must ensure that this manual is available as prescribed in line with section 14 and 51 of PAIA.

5. CSOS will now conduct regular Site Visits

CSOS investigators conduct regular physical site visits to assess compliance and practices within Community Schemes.

This engagement is particularly focused on those that have a history of compliance or have requested support.

6. The undesirable rules identified for Community Schemes, as specified in the draft directive:

- **Fines and Penalties:** Fines may not exceed the applicable monthly levy. Trustees cannot impose fines without following a fair procedure.
- **Littering:** A rule prohibiting eating on common property is unacceptable.
- **Insurance:** Tenants must notify trustees of any changes to their personal insurance policies regarding their own movable property.
- **Enforcement of Rules:** Any rule that contracts members outside the CSOS dispute resolution process is undesirable.
- **Domestic Employees:** Rules restricting domestic workers from receiving visitors or having conversations on common property are discriminatory.
- **Tenant Eviction:** Community Schemes cannot force members to evict tenants, as this is unreasonable and unconstitutional.
- **Slaughtering:** Prohibiting the slaughtering of animals for cultural or religious purposes is not allowed, though wild animal slaughtering within the scheme can be prohibited.
- **Disconnection of Water:** Disconnecting a member's water supply for non-payment of levies may violate constitutional rights.
- **Location of Pipes:** Trustees must maintain records showing the location of all pipes and utilities.
- **Interest:** Interest cannot exceed the maximum rate allowable under the National Credit Act.
- **Levies:** Rules preventing members from exercising voting rights due to non-payment of levies will not be accepted.
- **Costs:** Rules attempting to recover travel costs or fees related to dispute resolution from members will not be passed.
- **Short-term Rentals:** Restrictions on the choice of short-term rental aggregators for owners are impermissible.
- **Discrimination:** Any rules that unfairly limit owners' rights, such as language policies favoring one language over others, are undesirable.
- **Developers' Rules:** Rules regarding the development period must be clearly specified.
- **Duty of Unit Owners:** Rules requiring owners to disclose mortgage details are inappropriate.

7. Must an executive managing agent have an FFC?

Yes, a managing agent must have a Fidelity Fund Certificate (FFC). This requirement is stipulated in terms of sections 28(1) and 28(2) of the STSM Act, as per PMR 28. The relevant documents required for such appointments include proof of the professional indemnity insurance policy and the Fidelity Fund Certificate.

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