

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# Government Gazette

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## **THE PRESIDENCY**

No. 519

14 June 2011

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 9 of 2011: Community Schemes Ombud Service Act, 2011.**



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*(English text signed by the President)*  
*(Assented to 11 June 2011)*

# ACT

**To provide for the establishment of the Community Schemes Ombud Service; to provide for its mandate and functions; and to provide for a dispute resolution mechanism in community schemes; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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## Chapter 1

### *Interpretation*

#### Definitions

1. In this Act, unless the context indicates otherwise—
  - “**adjudicator**” means a person contemplated in section 21(2)(b); 5
  - “**association**” means any structure that is responsible for the administration of a community scheme;
  - “**Board**” means the Board of Service established by section 6;
  - “**chief financial officer**” means the person appointed as the chief financial officer in terms of section 14; 10
  - “**chief ombud**” means the person appointed as the chief ombud in terms of section 14;
  - “**common area**” means any part of land or building in a community scheme which is intended for common use by occupiers;
  - “**community scheme**” means any scheme or arrangement in terms of which there is shared use of and responsibility for parts of land and buildings, including but not limited to a sectional titles development scheme, a share block company, a home or property owner’s association, however constituted, established to administer a property development, a housing scheme for retired persons, and a housing co-operative as contemplated in the South African Co-operatives Act, 2005 (Act 20 No. 14 of 2005) and “**scheme**” has the same meaning;
  - “**Department**” means the Department of Human Settlements;
  - “**Director-General**” means the Director-General of the Department of Human Settlements;
  - “**dispute**” means a dispute in regard to the administration of a community scheme between persons who have a material interest in that scheme, of which one of the parties is the association, occupier or owner, acting individually or jointly; 25
  - “**executive committee**” means the executive body of a community scheme, including but not limited to the trustees of a sectional title body corporate, the board of directors of a share block company and the management association of any housing scheme for retired persons; 30
  - “**levies**” means the levies contemplated in section 59;
  - “**managing agent**” means any person who provides management services to a community scheme for reward;
  - “**mandate**” means the mandate of the Service as contemplated in section 5; 35
  - “**Minister**” means the Minister of Human Settlements;
  - “**occupier**” means a person who legally occupies a private area;
  - “**ombud**” means a person contemplated in section 21(2)(a);
  - “**owner**” means a person who has a legally secured right to possession and occupation of a private area, including but not limited to the owner of a sectional title unit, the holder of shares in a share block company and the holder of an occupation right in a housing scheme for retired persons; 40
  - “**person**” includes an association, partnership, trust, corporation, private or public entity and such person’s representatives, successors and assignees;
  - “**practice directive**” means a practice directive issued in terms of section 36; 45
  - “**private area**” means any area in a community scheme set aside for private occupation or ownership, excluding any common area;
  - “**prescribe**” means prescribe by regulation made under this Act;
  - “**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); 50

**“regulation”** means a regulation made in terms of section 29;  
**“scheme governance documentation”** means any rules, regulations, articles, constitution, terms, conditions or other provisions that control the administration or occupation of private areas and common areas in a community scheme, and  
**“scheme governance provision”** has a corresponding meaning; 5  
**“Service”** means the Community Schemes Ombud Service established by section 3; and  
**“this Act”** includes the regulations.

## Chapter 2

### *Community Schemes Ombud Service* 10

#### **Purpose of Act**

2. The purpose of this Act is to provide for—
- (a) the establishment of the Service;
  - (b) the functions, operations and governance of the Service; and
  - (c) a dispute resolution mechanism in community schemes. 15

#### **Establishment of Service**

3. (1) There is hereby established a juristic person to be known as the Community Schemes Ombud Service.
- (2) The Service operates as a national public entity listed in terms of the Public Finance Management Act with its executive authority vested in the Minister. 20
- (3) The Service must establish a national head office and, where necessary, regional offices.
- (4) The provisions of the Public Finance Management Act apply to the Service.

#### **Functions of Service**

4. (1) The Service must— 25
- (a) develop and provide a dispute resolution service in terms of this Act;
  - (b) provide training for conciliators, adjudicators and other employees of the Service;
  - (c) regulate, monitor and control the quality of all sectional titles scheme governance documentation and such other scheme governance documentation as may be determined by the Minister by notice in the *Gazette*; and 30
  - (d) take custody of, preserve and provide public access electronically or by other means to sectional title scheme governance documentation and such other scheme governance documents as may be determined by the Minister by notice in the *Gazette*. 35
- (2) In performing its functions the Service—
- (a) must promote good governance of community schemes;
  - (b) must provide education, information, documentation and such services as may be required to raise awareness to owners, occupiers, executive committees and other persons or entities who have rights and obligations in community schemes, as regards those rights and obligations; 40
  - (c) must monitor community scheme governance; and
  - (d) may generally, deal with any such matters as may be necessary to give effect to the objectives of this Act.
- (3) The Service acts through its Board. 45