

CONSOLIDATED PRACTICE Directives GOVERNANCE

2025



VOLUNTARY SUBMISSION OF RULES AND SCHEME GOVERNANCE DOCUMENTS FOR ALL COMMUNITY SCHEMES OTHER THAN SECTIONAL TITLES

SCOPE OF APPLICATION

- Homeowners Association;
- Housing schemes for retired persons;
- Housing Cooperatives ;
- Any other community schemes contemplated in the CSOS Act other than a Sectional Title Scheme;

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Rationale

- The CSOS Act does not place an obligation on community schemes other than sectional titles to submit governance documents for quality assurance by the CSOS; however, over the years CSOS has seen an increase in requests from 'other' community schemes for their scheme documents to be approved by CSOS.
- The application shall be voluntary and non-submission to CSOS does not invalidate the scheme's governance documentation.
- CSOS therefore receives the documents, and quality assures the documents in line with legislation.

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Rationale

CSOS relies on section 4(2)(d) of the CSOS Act which states

“in performing its functions, the Service- may generally deal with any such matters as may be necessary to give effect to the objectives of this Act”

When processing the submitted governance documents CSOS ensures that the rules do not unjustifiably limit the rights of members of the community scheme, rules are based on the principles of good governance and accountability .

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Procedure

- The applicant must complete the Form B1 and submit all necessary documentation
- All forms must be legible
- The Scheme Governance Officer will not complete the form on behalf of the applicant.
- Submission of the application form can be done by hand or email.

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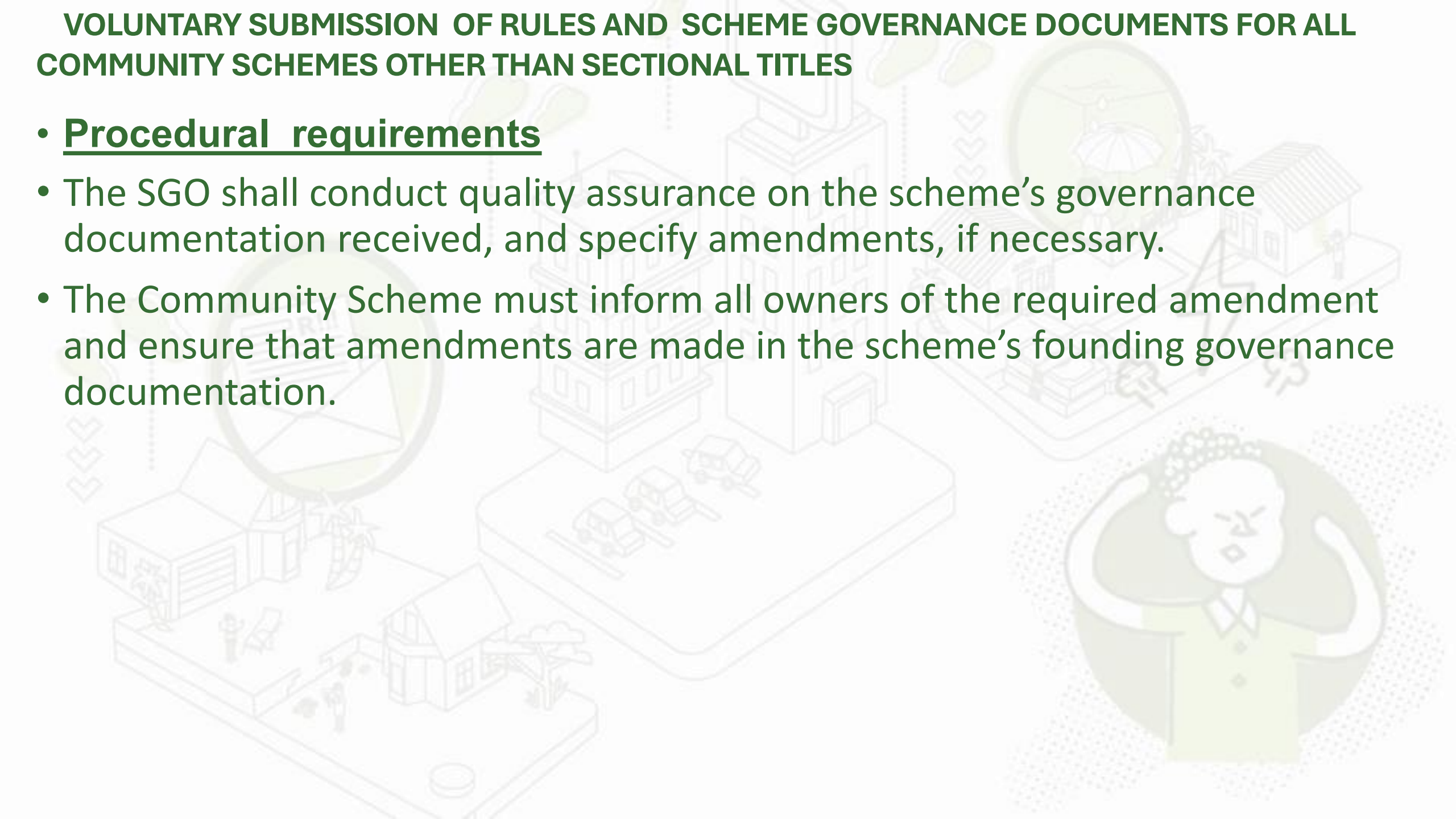
- **Application requirements**

- Form B1, duly signed by the two directors or one director and managing agent;
- b) Signed and approved minutes of the meeting where governance documentation was tabled for approval by an appropriate body;
- c) Consolidated governance documentation;
- d) Signed resolution confirming the amendment of governance documentation; and
- e) In case of amendment of rules, the Community Scheme's constitution or memorandum of incorporation must be attached to confirm the resolution required to amend the rules.

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- **Procedural requirements**

- The SGO shall conduct quality assurance on the scheme's governance documentation received, and specify amendments, if necessary.
- The Community Scheme must inform all owners of the required amendment and ensure that amendments are made in the scheme's founding governance documentation.



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- **Quality Assurance**

- The Community Scheme's governance documentation will be quality assured against the Constitution of the Republic of South Africa, municipal by-laws, and any other relevant and applicable legislation.
- Timeframes: 30 business days
- The process entails communications between the SGO and the applicant, recommendations are made.
- Once the recommendations have been adopted, the rules will be submitted to the Acting Chief Ombud for approval and certification
- A certificate will be issued to the applicant.
- CSOS will not issue a Quality assurance certificate if a scheme is not registered with CSOS.

RULES(DESIRABLE AND UNDESIRABLE)

• Undesirable Rules

To ensure uniform application of governance documentation, CSOS has identified undesirable rules, and these rules are relevant for quality assurance purposes.

RULE	
ENFORCEMENT	RULES THAT SEEK TO DIRECT THE CSOS DISPUTE RESOLUTION OUTSIDE ITS AMBIT ARE UNDESIRABLE
DOMESTIC EMPLOYEES	UNDUE RESTRICTION OF MOVEMENT IS UNDESIRABLE/ SUBJECTING DOMESTIC EMPLOYEES TO WEARING NAME TAGS
TENANT EVICTION	EVICTION DUE TO NON- COMPLIANCE. IMPOSE A FINE, EVICTION IS ILLEGAL
SLAUGHTERING	EXERCISE OF RELIGIOUS AND CULTURAL RIGHTS, UNDUE LIMITATION IS UNDESIRABLE
RESTRICTION AND DISCONNECTION OF UTILITIES	DESIRABLE – OBTAIN COURT ORDER TO DISCONNECT- the straight body corporate v J Makatsi judgement

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RULE	NARRATIVE
NATURE AND WILDLIFE ESTATES (Protection of fauna and flora)	Community Schemes classified as nature and/or wildlife estates, with conserved fauna and flora are permitted to prohibit the slaughtering of wild animals conserved with the Community Estate. Slaughtering of livestock may be permissible
Restriction and disconnection of essential utilities Body Corporate The Straight v Katisi [2023/031774],JHB High Court	Disconnection due to non -payment of levies is permissible – Due process must be followed, and application be made to the court to obtain order permitting the disconnection.

APPOINTMENT OF AN EXECUTIVE MANAGING AGENT

Community scheme may appoint an Executive Managing Agent(EMA) in terms of PMR 28(1) and PMR 28(2).

EMA: a property practitioner with a valid FFC and registered with the PPRA, who upon appointment will perform the functions of the trustees of the body corporate. An EMA will be responsible for the management of the scheme.

- **PMR28(1)**- A scheme may by special resolution decided to appoint an EMA. Where a scheme has appointed an EMA in terms of PMR28(1), the scheme must update the its information on CSOS connect to include the details of the EMA as the authorized representatives.
- **PMR 28(2)**- Members of the body corporate entitled to 25% of the total quotas of all sections of the community scheme can apply to CSOS for the appointment of EMA.
- CSOS has a panel of EMAs from which members of body corporates can select for appointment.

APPOINTMENT OF AN EXECUTIVE MANAGING AGENT

- **PMR 28(2) Application procedure**
- Applicants to complete and submit EMA application form 1
- Supporting documents: voting register with participation quota(25%), minutes of meetings etc.
- CSOS will consider the application, undertake all necessary steps and upon finalization an appointment letter will be issued by the Chief Ombud, appointing an EMA:
 - confirm that all members of the body corporate are aware of the application
 - Receive submissions on the application
 - Communicate the outcome of the application

APPOINTMENT OF AN EXECUTIVE MANAGING AGENT

- **EMA REQUIRMENTS:**

- (a) Registered property practitioner with the Property Practitioners Regulatory Authority
- (b) In possession of a valid FFC issued by the PPRA
- (c) The candidate/company must take out professional indemnity insurance cover. The aforesaid indemnity insurance is insurance cover payable by the company itself and is over and above fidelity insurance as required in terms of the CSOS Regulations and the Property Practitioners Regulatory Authority cover.
- (d) NQF5 Qualification
- (e) Sound knowledge of all relevant legislation
- (f) An EMA is accountable to the body corporate and must report quarterly to the body corporatee
- (g) A management agreement must be signed by the EMA and members of the body corporate

REMOVAL OF AN EXECUTIVE MANAGING AGENT

- Members of the body corporate can by special resolution terminate the management agreement of the EMA.
- Members of a body corporate may approach the CSOS for the removal of an ema appointed in terms of PMR 28(2).
- EMAs have signed a code of conduct, any conduct which breaches the code can lead to removal.
- A scheme must complete and file an application form with all supporting documents:
 - ✓ notice to members of the Body Corporate calling for a SGM accompanied by an agenda that includes the decision to consider revoking the EMA's mandate;
 - ✓ minutes of the meeting including a resolution and tabled reasons regarding the removal of the EMA,
 - ✓ an attendance register and proof of 25% (twenty-five) of the total voting quotas of all the sections;
- **The EMA will be notified of the complaint and afforded 14days to make written submissions**
- **CSOS will consider all information before submitted and make a ruling**
- **CSOS acts in terms of section 4(2)(d) of the CSOS Act.**

APPOINTMENT EXECUTIVE MANAGING AGENT BY OTHER COMMUNITY SCHEMES OTHER THAN SECTIONAL TITLES

- A scheme may apply to the CSOS for the appointment of an EMA, as per the scheme governance documentation.
 - By resolution
- An application will be considered in with PMR 28(2)



END

