



CSOS | Reserve Funds | Fidelity Insurance

Training by Leigh Maingard – 28 March 2023

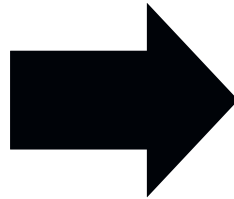
CSOS Act & Functions of Service

CSOS Act 9 of 2011

- 60 sections - sections 5 - 36 internal infrastructure & management
- Conciliation and adjudication processes
 - Applications & notices to parties concerned
 - Fees payable
 - Rejection of applications
 - Appointment of & orders by adjudicators
 - Enforcement of orders & right of appeal

Prayers for Relief – section 39 of Act

**7 Sections to
consider when
submitting
prayers for relief**



1. Financial
2. Behavioural
3. Scheme governance
4. Meetings
5. Management services
6. Private & common areas
7. General and other issues

CSOS Act 9 of 2011 - Regulations

- Promotion of good governance, training and education
 - Duties of scheme executives
 - Fidelity insurance – scheme obligation
 - Governance documentation – scheme documentation lodgement
 - Training – CSOS obligation
- Annual returns, certificates & forms

CSOS Act 9 of 2011 - Levies

Levy	Discount	Factor	Formula	CSOS Levy
R 500,00	R500,00	2%	Levy - Discount x Factor	R -
R 600,00	R500,00	2%	Levy - Discount x Factor	R 2,00
R 700,00	R500,00	2%	Levy - Discount x Factor	R 4,00
R 800,00	R500,00	2%	Levy - Discount x Factor	R 6,00
R 900,00	R500,00	2%	Levy - Discount x Factor	R 8,00
R1 000,00	R500,00	2%	Levy - Discount x Factor	R 10,00
R1 250,00	R500,00	2%	Levy - Discount x Factor	R 15,00
R1 500,00	R500,00	2%	Levy - Discount x Factor	R 20,00
R1 750,00	R500,00	2%	Levy - Discount x Factor	R 25,00
R2 000,00	R500,00	2%	Levy - Discount x Factor	R 30,00
R2 250,00	R500,00	2%	Levy - Discount x Factor	R 35,00
R2 500,00	R500,00	2%	Levy - Discount x Factor	R 40,00

CSOS Act 9 of 2011 - Fees

- Application fee = R 50,00
- Adjudication fee = R 100,00
- Copies of scheme documentation = R 8,00 per copy

Waiver of fees

- Net household income < R 5 500 pm (after PAYE)
- CSOS fees waived

CSOS Adjudication Orders

Bernadie vs Botania Court Body

BC ordered to repair roof & damages / Repay overcharged utilities

Bernadie - Applicant

- Damage from 2015 storms
- Trustees informed of damages
- Repair roof and damaged ceilings
- Water readings calculated incorrectly (method)
- Trustees informed – failed to rectify

Botania Court BC / Respondent

- Did not appear at conciliation or adjudication – was aware
- Aware of damages for 2 years
- Insufficient funds for repairs
- AGM voted against SL
- Ordered to repair within 30 days
- Reimburse over charged utilities

Turner vs The Adderley Body Corporate

Members not entitled to receive minutes of trustee meetings

Turner / Applicant

- Trustee meeting minutes 7 days
- Receive only after next trustee meeting
- PMR 9 (e) – 7 days after meeting

Body Corporate / Respondent

- Meeting dates listed on website
- PMR 9 (e) – persons **entitled** to notice of meeting
- Members not entitled to receive minutes nor notice of meetings
- Draft minutes may be interpreted incorrectly

Sonneveld Atlantis City HOA vs Mashaba

Payment of arrear levies

Sonneveld HOA / Applicant

- Application to pay arrear levies
- Evidence provided of continuous arrears and erratic payments
- Proof of interest charged on arrears

Mashaba / Respondent

- Did not attend conciliation or adjudication
- No defence or evidence provided
- Ordered to pay arrear levies + interest

Briers/Mawby vs White Sands HOA

Short term letting not allowed

Briers/Mawby - Applicant

- Infringement of constitutional right
- Rule contradicts constitution
- Ordered to comply

White Sands HOA / Respondent

- CR approved < 3 months
- Constitution – govern & administer HOA
- Constitution – rules control use of units
- New rule deemed reasonable

Northdowns Body Corporate vs Drishner

BC to reimburse charges levied on account - PMR 25 (5)

Northdowns BC - Applicant

- Trustees approved replacement of keys – cost R 21 900
- Withheld clearance certificate
- Did not comply PMR 25 (5)
- Ordered to reimburse R 24 000

Drishner / Respondent

- Lost keys to access gates of scheme
- Levy account debited R 21 900
- Interest accrued – R 2 100
- Reluctantly paid R 24 000
- Relief to be reimbursed R 24 000

Molapisi vs Jabulani Brooke Body Corporate

Reconnect electricity supply

Molapisi - Applicant

- 2 matters
- Electricity disconnection & damage to gate
- Relief for reconnection of electricity
- Damaged gate – resolve separately

Jabulani Brooke BC / Respondent

- Disconnected electricity
- Agreed to resolve gate out of CSOS hearings
- No court order or adjudication order
- Ordered to reconnect immediately

Reserve Fund Calculations

STSMA – Act & Regulations

STSMA Regulation 2 must be read and calculated in conjunction with section 3 (1) (b) of the STSM Act:

- To establish and maintain a reserve fund in such amounts as are reasonably sufficient to cover the cost of future maintenance & repair of common property but not less than such amounts as may be prescribed by the Minister

STSMA Regulation 2 – Scenario 1

If the amount in the reserve fund at the end of the previous financial year is less than 25% of the total contributions to the administrative fund for that previous financial year, the budgeted contribution to the reserve fund must be at least 15% of the total budgeted contribution to the administrative fund.

STSMA – Scenario 1 Calculation

- YE February 2022 – budgeted contributions R 450 000
- Reserve fund at February 2021 – R 90 000
- Total contributions 2020 / 2021 – R 400 000
- 25% of total contributions of R 400 000 = R 100 000
- Reserve thus less than 25% (R 90 000 vs R 100 000)
- 15% of budgeted contribution for 2022 = R 67 500 (R 450 000 x 15%)
- New budget amount for 2022 : R 450 000 + R 67 500 = R 517 500

STSMA Regulation 2 – Scenario 2

If the amount of money in the reserve fund at the end of the previous financial year is equal to or greater than 100% of the total contributions to the administrative fund for that previous financial year there is no minimum contribution to the reserve fund.

STSMA – Scenario 2 Calculation

- YE February 2022 – budgeted contributions R 450 000
- Reserve fund at February 2021 – R 410 000
- Total contributions 2020 / 2021 – R 400 000
- Reserve fund is R 10 000 more than the contributions for 2020 / 2021
- No minimum contribution required
- Budgeted contribution for 2022 = R 450 000

STSMA Regulation 2 – Scenario 3

If the amount in the reserve fund at the end of the previous financial year is more than 25% but less than 100% of the total contributions to the administrative fund for that previous financial year, the budgeted contribution to the reserve fund must be at least the amount budgeted to be spent from the administrative fund on repairs and maintenance to the common property in the financial year being budgeted for

STSMA – Scenario 3 Calculation

- YE February 2022 – budgeted contributions R 450 000 / R&M R 75 000
- Reserve fund at February 2021 – R 110 000
- Total contributions 2020 / 2021 – R 400 000
- 25% of total contributions of R 400 000 = R 100 000
- Reserve more than 25% but less than 100% ($R\ 110\ 000 / R\ 400\ 000 = 27,5\%$)
- New budget amount for 2022 : $R\ 450\ 000 + R\ 75\ 000 = R\ 525\ 000$

Fidelity Fund Insurance

Fidelity Fund Insurance

CSOS Act Regulation 23

- Risk of loss of money belonging to scheme
- Who are insurable persons
 - Scheme executives
 - Employ / agent who has control over funds of scheme
 - Managing agent
 - Contractor / employee directed by MA having access to funds

Fidelity Fund Insurance

- Payment of loss after satisfactory proof of loss
- Civil / criminal proceedings not required to submit claim
- Not obliged if insured person proves cover
 - Insurer notes schemes interest in proceedings
 - Undertaking not to cancel policy giving 30 days notice

Fidelity Insurance Calculation

Total value of investments & reserves last FYE + 25% of operational budget for current financial year

Example

- Previous YE February 2022 – investments & reserves R 800 000
- Operating budget 2022 / 2023 – R 285 000
- 25% of operating budget 2022 / 2023 = R 71 250 (R 285 000 x 25%)
- Fidelity insurance 2022 / 2023 = R 871 250 (R 800 000 + R 71 250)

Resources

CSOS Website – Legislation

<https://csos.org.za/legislation/>

CSOS Website – Adjudication Orders

<https://csos.org.za/adjudication-orders/>

Thank you