

WHAT DOES A TRUSTEE ACTUALLY DO?

(By Elwin Els)



Elwin Els

A plain-English guide to the role of trustees under the Sectional Titles Schemes Management Act.

If you live in a sectional title scheme, you have almost certainly heard the word “trustee” thrown around — usually just before an announcement about a special levy or a new pool rule. But few owners actually know what trustees are legally required to do, where their authority comes from, or what happens when they get it wrong.

Trustees are governed by the Sectional Titles Schemes Management Act 8 of 2016 (the “Act”), its Regulations, and the Prescribed Management Rules set out in Annexure 1 to those Regulations. Together, these documents set out not just what trustees may do, but the standard they must meet while doing it. Here's what that means in practice.

Who Becomes A Trustee And How

When a body corporate is first established, every owner is automatically a trustee — there is no election involved. This continues until the first general meeting. From that point, the rules depend on the size of the community scheme: if a community scheme has fewer than four owners of primary sections, each owner simply remains a trustee by default. Larger community schemes must decide how many trustees they want and elect them, starting at the first general meeting and then at every annual general meeting after that.

Anyone can be nominated, provided the nomination is in writing and the nominee consents. Not everyone qualifies, though. A managing agent or their employee cannot serve as trustee unless they also happen to be an owner, and a person is automatically disqualified if they have been declared of unsound mind, sequestered, convicted of an offence involving dishonesty, or removed from a position of trust for fraud or misappropriating money. Owners can also vote a trustee out at a general meeting, provided that intention was clearly flagged in the meeting notice.

What Trustees Are Actually Empowered To Do

Section 7 of the Act gives trustees the job of exercising the body corporate's functions and powers on a day-to-day basis, subject to the rules and to any restrictions the owners impose at a general meeting. In effect, owners set the boundaries and trustees operate within them.

Those functions, listed in section 3 of the Act, are broad. Trustees are responsible for establishing and maintaining the community scheme's administrative and reserve funds, raising levies to cover them, and applying those funds to the purposes owners approved in the budget. They must insure the buildings to full replacement value, keep the common property and shared plant, fixtures and fittings in good repair, comply with any notices or orders from local authorities, and generally control, manage and administer the common property for the benefit of every owner. They also handle the more procedural obligations — keeping the body corporate's contact details up to date with the Community Schemes Ombud Service, and providing owners' and trustees' names and addresses on reasonable request.

Much of this is delegated further in practice. Trustees may hand specific powers and duties to a managing agent, a committee, or even a single trustee, provided they specify what's being delegated, any spending limit attached to it, and any conditions that apply. A body corporate can also appoint an executive managing agent to take over the trustees' functions entirely — but that agent then carries exactly the same fiduciary duties and liability that a trustee would.



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The Fiduciary Duty: The Part That Actually Has Teeth

Section 8 of the Act is arguably the most important provision for owners to understand, because it is what trustees are held to when something goes wrong. Every trustee stands in a fiduciary relationship to the body corporate. That means they must act honestly and in good faith, use their powers only in the interest and for the benefit of the body corporate, and never act beyond the authority the Act and the rules actually give them.

Trustees may not receive any personal financial benefit, direct or indirect, from the body corporate or from anyone dealing with it. If a trustee has any personal interest in a contract the body corporate is considering — say, a family member's company is bidding for the maintenance contract — they must disclose it to the other trustees as soon as they become aware of it, and they must recuse themselves from any decision on a matter where they have that interest.

A trustee who breaches this duty is personally liable to the body corporate, either for any loss the body corporate suffers as a result, or for any benefit the trustee improperly received. The only real defence is if all the owners, fully informed of the facts, approved the conduct in writing before or after it happened.

How Decisions Actually Get Made

Trustees run the community scheme through trustee meetings, which any trustee can call by giving the others at least seven days' written notice and an agenda (shorter notice is allowed in genuine emergencies). A quorum is 50% of trustees by number, but never fewer than two; if a quorum cannot be reached, the trustees present may only make interim decisions, which need to be confirmed later at a properly quorate meeting or by a written resolution signed by everyone.

Decisions are passed by ordinary majority vote of those present, with each trustee getting one vote and the chairperson holding a casting vote if there's a tie (unless there are only two trustees). A trustee with a personal interest in the matter being decided is barred from voting on it. Owners, bondholders and the managing agent are allowed to attend and speak at trustee meetings, but not to vote — and they can be excluded from discussions about rule breaches or other sensitive matters.

The Financial And Maintenance Obligations

Trustees are the ones who prepare the annual budgets for the administrative and reserve funds, tabled for owner approval at the AGM, and who authorise payments out of those funds in line with the approved budget. They can raise a special levy between AGMs if an unbudgeted expense cannot reasonably wait, and they must ensure the reserve fund plan — a written maintenance, repair and replacement plan covering major items like roofing, lifts, wiring and paving for at least the next ten years — is kept up to date and reported on at every AGM.

Insurance is a specific, recurring duty: trustees must ensure the buildings are insured to replacement value, that the body corporate carries fidelity cover against theft or fraud by a trustee, managing agent or employee, and that insurance schedules are reviewed and put to owners for approval each year. Financial records, minutes and correspondence must be properly kept and made available to owners, bondholders and the managing agent on request, and retained for six years.

What Trustees Get In Return

Very little, as a rule. Trustees who are also owners are not entitled to be paid for serving unless the owners pass a special resolution saying otherwise; trustees who are not owners can be paid, but only if that's approved as part of the fund budget. What trustees are entitled to is reimbursement of reasonable expenses incurred in doing the job, and indemnity from the body corporate against costs and losses arising from official acts — as long as those acts didn't breach their fiduciary duty.





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Why This Matters To Every Owner

Trustees are, in effect, unpaid custodians of a shared asset. The Act gives them real authority — to spend the scheme's money, sign contracts, and make decisions that affect every owner's property value and daily life — but it pairs that authority with personal legal accountability if they misuse it. Understanding the framework helps owners ask better questions at AGMs, recognise when trustees are operating properly within their mandate, and know what recourse exists when they aren't.

If you are considering standing as a trustee yourself, the short version is this: it is a role of trust, not just administration. Act in the body corporate's interest, stay within the powers the rules actually give you, disclose anything that looks like a conflict, and keep proper records — and the rest of the Act's requirements largely take care of themselves.

This article is a general guide based on the Sectional Titles Schemes Management Act 8 of 2016, its Regulations, and the Prescribed Management Rules (Annexure 1). It is not legal advice — specific situations should be checked against the current legislation or with a qualified professional.



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