

# INDIA JURIS

## GOVERNMENT OF SOUTH AFRICA PASSED COMMUNITY SCHEMES OMBUD SERVICE ACT

A great many South Africans live in housing schemes where the use of and responsibility for land and buildings is shared. In this light, the Community Schemes Ombud Service Act, No 9 of 2011 (Act) was brought into force in the month of November, 2016.

One of the purposes of the Act is to provide for a dispute resolution mechanism in the context of community schemes that is cost effective and efficient, and which does not require consumers to engage legal representation, or draw on scarce judicial resources.

In short, it provides for the establishment of a body to be known as the "Community Schemes Ombud Service" (Ombud). The Ombud is responsible for receiving and processing "applications" by members of community schemes seeking relief pertaining to their particular scheme. Importantly, the Ombud is empowered to grant relief in relation to occupiers in a scheme, not just owners, in various situations including:

- in respect of financial issues, an order calling for the auditing of the association's accounts;
- in respect of behavioural issues, an order for the removal of illegally attached parts of a common or a private area;
- in respect of scheme governance issues, an order requiring the association to approve and record a new scheme governance provision;
- in respect of meetings, an order requiring the association to call a members' meeting to deal with specified business;
- in respect of management services, an order declaring that the association does or does not have the right to terminate the appointment of a managing agent, and that the appointment is or is not terminated;
- in respect of works pertaining to private areas and common areas, an order requiring the association to have repairs and maintenance carried out; and
- in respect of general and other issues, an order declaring that the applicant has been wrongfully denied access to information or documents, and requiring the association to make such information or documents available.

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### INDIA JURIS

F-116

Lajpat Nagar-1

New Delhi - 110 024, India

Ph: +91-11-29814816 / 29814817

Fax: +91-11-29815116

E: [newdelhi@indiajuris.com](mailto:newdelhi@indiajuris.com)

[www.indiajuris.com](http://www.indiajuris.com)

### International Desks

#### Asia & Australia

M.P.Mehani

[asia@indiajuris.com](mailto:asia@indiajuris.com)

#### Americas

Shivkumar Idnani

[americas@indiajuris.com](mailto:americas@indiajuris.com)

#### UK & Europe

Sameer Rastogi

[europe@indiajuris.com](mailto:europe@indiajuris.com)

#### Africa

Rahul Gupta

[africa@indiajuris.com](mailto:africa@indiajuris.com)

#### Middle East

Dinesh Sabharwal

[middleeast@indiajuris.com](mailto:middleeast@indiajuris.com)