

Why must I pay levies to CSOS?

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Most people know of the Community Schemes Ombud Service (CSOS) and that levies must be paid to fund its operations. In this article I will address some of the issues that are causing confusion.



From when are CSOS levies payable?

The CSOS Act and Regulations came into effect on 7 October 2016, and in terms of section 29(1)(b) of that Act, all community schemes must pay levies to the CSOS. The Regulations that detailed the levies came into effect 90 days after the Act, so the CSOS levies are payable from 7 January 2017.

Who is liable to pay the CSOS levies?

The CSOS levies are not debts owed by individual owners to the CSOS. Even though the amounts of the levies, and waivers of, are calculated by reference to the contributions payable by individual owners, the total amount due by all owners in a community scheme is a debt payable by the scheme to the CSOS. Section 59(a) of the CSOS Act provides that every community scheme must pay the prescribed CSOS levies.

When are CSOS levies payable?

In terms of General CSOS Regulation 11(1) every community scheme must pay CSOS levies on a quarterly basis.

Can schemes insist that CSOS provide an invoice before they pay levies?

There is no provision in the CSOS Act or Regulations that requires the CSOS to issue schemes with invoices for levies. Schemes are legally obliged to remit levies to CSOS as soon as CSOS is in a position to accept payment. At this time CSOS does not have details of all community schemes. While its staff are trying to get as many community schemes as possible recorded on its database, this is an ongoing process.

What will happen if a scheme collects the levies but withholds payment to CSOS?

In terms of General CSOS Regulation¹³ any community scheme which fails to pay a CSOS levy on due date is liable to pay interest at a rate prescribed by the National Credit Act, 2005. This is likely to be a rate of 22% per annum on the basis that the debt arises from an incidental credit agreement.

Community scheme executives should:

1. Work out the amount of the CSOS levies owed by their scheme (get help from your managing agent, if necessary);
2. Take whatever administrative action is necessary in your scheme to raise the levies so that the owners become legally liable to the scheme for their share of the CSOS levy, e.g. in a sectional title scheme, take a trustee resolution levying special contributions and send notices to all owners requiring payment (get help from your scheme's managing agent or lawyer if necessary, particularly if you are in a scheme that is part of a bigger development);
3. Take active steps to collect the amounts (if owners leave the scheme without paying, the scheme will have to collect their share from the remaining owners);
4. Make sure your scheme is registered with the CSOS as soon as possible (details of the various CSOS offices are available at <http://www.csos.org.za>);
5. Even if you have no confirmation of your registration, write to the CSOS offering to make payment (if you want any chance of avoiding the high rate of interest the CSOS Act requires on overdue levy payments, you need to be able to show that the scheme had the money and tried to pay the CSOS to make it clear that the delay in payment is not the scheme's fault);
6. Invest the CSOS levies at the best short-term interest rate you can get in the meantime, pending payment to the CSOS, so as to mitigate the scheme's losses if it is obliged to pay interest at 22% p.a.

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