

*Managing property properly*

## Resolutions in sectional title schemes

There is often confusion about what level of body corporate consensus is required for certain decisions. Therefore the below lists have been compiled for ease of reference

**Note:** The list of ordinary resolutions includes the most common, and is not intended to be a fully comprehensive list.

The list of operations requiring the written consent of all owners, and special and unanimous resolutions is complete.

### Ordinary resolutions

Simple majority of members at a general meeting, counted in vote value:

- approval of the administrative and reserve budgets – PMR 17(6)(j)(iv)
- approval of insurance – PMR 17(6)(j)(ii) and (iii)
- appointment of the auditor – PMR 17(6)(j)(vi)
- determination of the number of trustees – PMR 5(3) and PMR 17(6)(j)(vii)
- election of trustees – PMR 17(6)(j)(viii)
- removal of trustees – PMR 6(4)(g)
- removal of the chairperson – PMR 12(5)
- appointment of an alternate chairperson to chair a general meeting when chairperson not present – PMR 18(2)
- appointing a trustee to take the place of one who has been removed – PMR 7(5)
- the giving of directions or restrictions to the trustees in terms of section 7(1) of the Act – PMR 17(6)(m)
- determination of the financial year – PMR 21(1)
- confirming the developer has fulfilled accounting and reporting obligations at the first meeting – section 16(2)(c) and (e)
- ratify or not ratify contracts entered into by the developer for the body corporate – PMR 16(2)(d)

- instruction to trustees to appoint a managing agent – PMR 28(5)(b)
- cancel the management agreement in accordance with its terms – PMR 28(8)
- approve the erection of a structure or building improvement on an EUA – PMR 30(g)
- approve the 10 year maintenance, repair and replacement plan – PMR 22(3)
- install and maintain separate electricity and water meters – PMR 29(3)

### Special resolutions

Taken at a general meeting – ordinary quorum and at least 75% in number and value of members present or represented vote in favour.

By round robin – at least 75% of all owners in number and value vote in favour

- adding to, amending or repealing conduct rules – section 10(2)(b) of the Act
- authorising the extension of a section – section 5(1)(h) of the Act
- create and confer rights of exclusive use by conduct rule – section 10(7) and (8) of the Act
- cancelling registered exclusive use rights in terms of section 27(5) of the Sectional Titles Act – section 5(1)(f) of the Act
- execute or accept servitudes or restrictive agreements that burden or benefit the land in terms of section 29 of the Sectional Titles Act – section 5(1)(g) of the Act
- making rules that provide for different voting values or contribution liability (also need written consent of adversely affected owners) – section 11(2) of the Act
- suing the developer in respect of the scheme – section 2(7)(e) of the Act
- deciding that the body corporate must insure against other than the prescribed risks – PMR 23(8)
- authorising remuneration for an owner-trustee – PMR 8(2)
- authorising an improvement or alteration to the common property that is reasonably necessary (if any owner requests a meeting to discuss and vote on the issue after trustees have notified owners of their intention to proceed with improvement) – PMR 29(2)
- appoint an executive managing agent – PMR 28(1)
- cancel the managing agent's appointment on two month's notice – PMR 28(7)(a)
- deciding to hold a general meeting outside of the municipal area – PMR 15(4)
- approve body corporate borrowing money – section 4(e)
- approve the purchase or sale of a unit by the body corporate – section 4(b)
- approve the short-term lease of common property – section 4(h)
- approve the installation of pre-paid meters – PMR 29(4)

## Unanimous resolutions

Taken at a meeting – 80% quorum counted in number as well as in vote value. All members or their representatives who vote, vote in favour.

By round robin – all owners to vote in favour

- adding to, amending or repealing management rules – section 10(2)(a)
- authorising an improvement or alteration to the common property that is not reasonably necessary – PMR 29(1)
- authorising the body corporate to alienate or let all or part of the common property in terms of section 17(1) of the Sectional Titles Act – section 5(1)(a)
- request the delineation and cession of exclusive use rights to particular owners in terms of section 27 of the Sectional Titles Act – section 5(1)(e)
- create and confer rights of exclusive use by management rule – section 10(7) and (8)
- extend the period of the developer's future development right in terms of section 25 of the Sectional Titles Act – section 5(1)(c)
- decide on the distribution of compensation for expropriation of common property – section 12(2)(a)
- deciding that the buildings are deemed to be destroyed – section 17(1)(b)
- deciding to rebuild/reinstate buildings if buildings have been damaged or destroyed, or not to do so – section 17(3)(a)
- authorise the body corporate to make loans from body corporate money – PMR 21(2)(a)

## Decisions reserved for the trustees alone in terms of the SMSTA and prescribed rules

- raising the annual contribution – section 3(2)
- raising a special contribution – section 3(3)
- consent for subdivision or consolidation of sections – section 7(2)
- enter into agreements about boundaries of the common property in terms of the Land Survey Act – section 7(3)
- appoint a replacement trustee to serve while trustee is unavailable – PMR 7(7)
- sign a document binding on the body corporate – PMR 10(1)
- set the dates for future trustee meetings with a standard agenda – PMR 11(2)
- exclude non-trustee members and others entitled to attend trustee meetings from the meeting – PMR 11(3)(b)
- hold a trustee meeting using electronic communication – PMR 11(5)
- elect the chairperson – PMR 12(3)
- elect a replacement chairperson if the chairperson is removed from office, is not present or is unwilling to chair the trustee meeting – PMR 12(6) and (7)
- call general meetings at short notice – PMR 15(7)(a)
- call general meetings whenever they see fit – PMR 17(4)

- determine the agenda of general meetings except meetings called on request of members holding at least 25% of the vote – PMR 17(7)
- decide that a special resolution passed by members holding less than 50% of the vote value must be implemented immediately – PMR 20(9)(a)
- increase the contribution by up to 10% for the period between the end of the financial year and when the new contribution becomes payable – PMR 21(3)(b)
- delegate trustee duties – PMR 21(3)(g)
- pay money from the administrative and reserve funds – PMR 24(4) and (5)
- adopt a report for presentation at the AGM – PMR 26(1)
- consent to keep a pet – PCR 1
- specify the type of refuse receptacle to be used and where it must be kept – PCR 2
- consent to park a vehicle on common property – PCR 3
- consent to member making a small change to common property – PCR 4(1)
- approve appearance and materials of locking or safety devices attached to common property – PCR 4(2)
- consent to change made to external appearance of section or EUA – PCR 5
- consent to erection of washing lines on common property, hanging washing in section or EUA if visible – PCR 5(2)
- consent to display of signs etc. – PCR 5(2)(c)
- store flammable materials – PCR 6

### **Trustee resolutions that must be written out**

Some of the decisions trustees make must be made by written resolution, that is, the text of the resolution must be written out before the trustees vote on whether to adopt that resolution or not. The purpose is to make the resolution absolutely clear to the trustees before they vote. These are the resolutions that must be in written form:

- raising a special contribution – PMR 21(3)(a)
- increase the contribution by up to 10% for the period between the end of the financial year and when the new contribution becomes payable – PMR 21(3)(b)
- charging interest on overdue amounts – PMR 21(3)(c)
- investing reserve fund money – PMR 21(3)(d)
- entering into contracts – PMR 21(3)(e)
- joining organisations and subscribing to services – PMR 21(3)(f)
- delegating trustee duties – PMR 21(3)(g)
- approaching the Ombud for relief – PMR 21(3)(h)
- set the dates for future trustee meetings with a standard agenda – PMR 11(2)