



EXECUTIVE MANAGING AGENT (EMA)

The **Sectional Titles Schemes Management Act (STSMA)**, signed into law on 7th of October 2016, was the genesis of the **Executive Managing Agent (EMA)** capability. The concept and overriding objective of an Executive Managing Agent (EMA) is the professionalisation of the trustees' role, this making the paradigm shift from volunteer with indemnification, to full-time role with liability.

The **Executive Managing Agent (EMA)** assumes the roles and functions that would otherwise be the responsibility of a board of Trustees; such functions include budgeting and all related financial affairs, maintenance, levy collections and associated procedures, rule enforcement, housekeeping issues and any other tasks on behalf of other owners in a scheme; these all being critical to ensure optimisation of value for which trustees are ultimately liable.

The traditional role of a Trustee has become increasingly difficult and complicated, exacerbated by the part-time and all too often non-professional nature of related capability, protected by some level of indemnity offered by the STSMA.

The many, largely unknown and onerous responsibilities coupled with the thankless nature of being a trustee has led to a dwindling number of willing participants to perform this critical function. Recognising these challenges, the Legislature in line with prescribed management Rule 28(1) of the STSMA, provides for Bodies Corporate, by way of a special resolution, to appoint an Executive Managing Agent (EMA).

Major benefits to appointing an Executive Managing Agent (EMA) include:

- Complete objectivity in relation to crucial decision-making; a convenient way for owners to avoid any difficult scenarios pertaining to their fellow owners that may involve legal proceedings, renovation requests, conduct rule transgressions etc.
- Ensures full-time focus by suitably qualified and experienced professionals, as opposed to part-time volunteer management. The Executive Managing Agent (EMA) is afforded no indemnification in terms of the STSMA and is fully liable for all decisions, or omissions*.

How will the appointment of an Executive Managing Agent (EMA) safeguard my investment?

* The ZDGroup has R5 million professional insurance cover.

LEARN MORE AN EXECUTIVE MANAGEMENT AGENT (EMA)

What is an Executive Managing Agent (EMA)?

An Executive Managing Agent (EMA) is an individual and/or company appointed by the members of a Community Scheme to perform the roles, responsibilities and functions that would ordinarily be performed by Trustees. The Executive Managing Agent (EMA) 'steps into the shoes' of the conventional trustees, and is responsible for the management of the scheme per legislative directive.

Is the Executive Managing Agent (EMA) our Managing Agent (MA)?

The role of the Executive Managing Agent (EMA) and Managing Agent (MA) are not, by definition, one and the same. While technically your MA could be appointed as the scheme's Executive Managing Agent (EMA), best practice dictates a separation of these critical functions to ensure a healthy segregation of responsibility noting the Managing Agent (MA) takes instruction from the trustees, and or appointed Executive Managing Agent (EMA).

The pro's and con's of appointing an Executive Managing Agent (EMA)?

Being a trustee in a scheme is a time-consuming and often thankless job which, to do correctly, requires time and focus ideally coupled with a diverse skill-set. Schemes are essentially businesses with multi-million Rand asset values requiring dedicated, skilled and focused management. Volunteer trustees seldom have the time and focus and don't always have the full skill-set required to run these multimillion Rand businesses. An Executive Managing Agent (EMA) essentially professionalises the board of trustees, this from part-time volunteer to full-time, dedicated professional management with no indemnification as is afforded to volunteer trustees. ZDMgt has the know-how with a good blend of both technical expertise and practical experience.

What else does the Executive Managing Agent (EMA) do?

The Executive Managing Agent (EMA) is required to manage the scheme with the required professional level of skill and care as directed by all prevailing and applicable legislation; the Executive Managing Agent (EMA) is liable for losses suffered by the scheme and enjoys no level of indemnification thereby ensuring full accountability.

How does a scheme appoint an Executive Managing Agent (EMA)?

By way of a special resolution of the members as directed by Prescribed Management Rule ("PMR") 28 of the STSMA. All owners are members and thus the appointment is essentially an owner decision. Members can also apply to the Community Schemes Ombud Service ("the CSOS") to appoint an Executive Managing Agent (EMA) to a scheme, provided those members hold 25% of the total quota of sections in the scheme.

Who do Executive Managing Agent (EMA)'s Report to?

To all owners/members as directed by PMR 28, that being every 4 months by way of an Executive Managing Agent (EMA) Report detailing all administrative and pertinent matters. The Executive Managing Agent (EMA) works very closely with the Managing Agent (MA) of the scheme, as the trustees would. Good synergy between the Managing Agent (MA) and the Executive Managing Agent (EMA) is of paramount importance. ZDMgt has adopted the approach of monthly reporting to all owners where they have been appointed as Executive Managing Agent (EMA). Experience, being invaluable, has shown that while the regulations provide for quarterly reporting, the monthly reporting approach ensures transparency, and lessens the number of queries from members every quarter, who instead have the benefit of more frequent and consistent reporting on the management of their scheme.

How do we know the Executive Managing Agent (EMA) is doing what they are meant to?

As alluded to, an Executive Managing Agent (EMA) must report to every member of the scheme at least quarterly, as per the legislation, concerning the administration of the scheme. An Executive Managing Agent (EMA) must also inspect the common property at least every 6 months.

And, if we are not happy with the Executive Managing Agent (EMA)? What now?

Just as appointing an Executive Managing Agent (EMA) is done by special resolution, the same applies to terminating an Executive Managing Agent (EMA)'s services meaning there is no long-term lock-in.

If I have an issue, what do I do?

Ordinarily the Managing Agent (MA) remains your point of call, who in turn take instructions from trustees. If an Executive Managing Agent (EMA) is appointed there will be no trustees and thus the Managing Agent (MA) takes instructions from the Executive Managing Agent (EMA). The lines of communication do not change for members and the Executive Managing Agent (EMA) is always available on request.