

CHAPTER 267 - Rating Act

Commencement Date: 12/12/1963

An Act of Parliament to provide for the imposition of rates on land and buildings in Kenya; to amend the law relating to valuation and rating in Kenya; and for purposes connected therewith and incidental thereto

Short title

1.This Act may be cited as the Rating Act.

Interpretation

L.N. 39/1965. L.N. 264/1965, 6 of 1977, s. 4. Cap.318.
Cap.265.

2.In this Act, unless the context otherwise requires—

"agricultural rental value rate" means a rate levied on the annual value of agricultural land;

"agricultural land" has the meaning assigned to it by the Agriculture Act;

"annual value", in relation to an agricultural rental value rate, means—

(a) in the case of land which is held on a lease from the Government for a term of 999 years and in respect of which an annual rent has been reserved by such lease, the annual rent so reserved; and

{b) in the case of any other land, the annual rent which might reasonably have been reserved if such land had been held on a lease from the Government for a term of 999 years commencing with the year 1960;

"area council" means any area council established under the Local Government Act;

"area rate" shall have the meaning assigned to it in section 5 (1);

"the Council" means the Council of a municipality, township or county, as the case may be;

"county" has the meaning assigned to it in the Local Government Act;

"financial year" means the twelve months ending on and including the 31st December of each and every year;

"improvement rate" shall have the meaning assigned to it in section 6 (2);

"land" has the meaning assigned to it by the Valuation for Rating Act;

"local council" means any local council established under the Local Government Act;

"rateable owner" has the meaning assigned to it by section 7 of the Valuation for Rating Act;

"rating area" means, in relation to any method of rating or rate adopted or levied under this Act, the area in, upon or in respect of which such method of rating or rate may, under this Act, be adopted or levied;

"the rating authority" means—

(a) in respect of a municipality and any local council area situate therein, the municipal council thereof;

(b) in respect of a county and any urban, area or local council situate therein, the county council thereof;

(c) in respect of a township, the town council thereof;

"site value rate" shall have the meaning assigned to it in section 6 (1);

"urban council" means any urban council established under the Local Government Act;

"valuation roll" and "supplementary valuation roll" mean any valuation roll or supplementary valuation roll prepared under and in accordance with the provisions of the Valuation for Rating Act.

Duty to levy rates

L.N.39/1965, 6 of 1977, s.5.

Cap 265

3.(1) Rates shall be levied by the rating authority to meet all liabilities falling to be discharged out of the general rate fund, the county fund or the township rate fund as the case may be, for which provision is not otherwise made.

(2) For the purposes of this section liabilities falling to be discharged out of the general rate fund, the county fund or the township rate fund, as the case may be shall include amounts required by the Council to establish a general reserve fund or to increase the amount of the general reserve fund to a reasonable level in accordance with section 218 of the Local Government Act.

(3) In this section, "the county fund", "the general rate fund", "the township rate fund" and "the general reserve fund" mean the funds provided for under sections 216 and 218 of the Local Government Act.

Forms of rating

L.N. 264/1965

4.(1) The rating authority may, for the purposes of levying rates, adopt the following forms of rating—

(a) an area rate in accordance with section 5;

(aa) an agricultural rental value rate;

(b) a site value rate or a site value rate in combination with an improvement rate in accordance with section 6:

Provided that—

(i) where any one of the aforementioned forms of rating has been adopted in respect of any rating area, no other form of rating under this subsection shall, at the same time, be adopted in respect of that area;

(ii) before the rating authority adopts any form of rating, the Minister's approval to the form of rating so adopted and the rating area in respect of which such form of rating is adopted shall be obtained and a notice to this effect shall be published by the rating authority.

(2) As soon as may be after the rating authority has adopted as a form of rating for any rating area any form of area rate or agricultural rental value rate the Minister may, under section 27, make rules appropriate to the form of rating so adopted.

(3) Where the rating authority has adopted for any rating area a form of rating under subsection (1) (b), the provisions of the Valuation for Rating Act shall apply to the form of rating so adopted.

Alternative methods of area rating

5.(1) Subject to subsection (2), the rating authority may, with the approval of the Minister, adopt one or more of the following methods of rating—

(a) a flat rate upon the area of land;

(b) a graduated rate upon the area of land;

(c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;

(d) an industrial rate upon the area of land used for other than agricultural or residential purposes;

(e) a residential rate upon the area of land used for residential purposes;

(f) such other method of rating upon the area of land or buildings or other immovable property as the rating authority may resolve, and a rate levied in accordance with any such method as aforesaid shall in this Act be known as an area rate.

(2) The rating authority may adopt different methods of area rating for different parts of the area of the rating authority and may from time to time vary the method or methods adopted, and may adopt in relation to any rating area the methods of area rating referred to in subsection (1) in the manner following, that is to say—

(i) method (a) or method (b) or method (c) as alternative methods which are mutually exclusive;

(ii) method (d) or method (e), or both, in addition to method (a) or method (b), but not in addition to method (c);

(iii) method (f) shall not be combined with any other method of area rating.

Site value and improvement rates

L.N.39/1965. Cap.266

6.(1) Where there is in force in respect of any area of a municipality or a county a valuation roll or supplementary valuation roll which, by reason of the issue by the Minister of a declaration under the proviso to section 6 of the Valuation for Rating Act, does not include the value of land or when no improvement rate is levied, the rating authority may levy a rate on the unimproved value of land as

appearing in such roll (in this Act referred to as a site value rate) for each financial year of such amount as the rating authority shall determine:

Provided that such rate shall not, without the consent of the Minister, exceed four per centum of the unimproved value of land.

(2) In any case to which subsection (1) does not apply, the rating authority may levy a site value rate in combination with a rate on the assessment for improvement rate as appearing in the valuation roll (in this Act referred to as an improvement rate):

Provided that—

(i) any site value rate shall not, without the consent of the Minister, exceed four per centum of the unimproved value of land; and

(ii) the estimated product of any improvement rate shall not, without the consent of the Minister, exceed in any financial year one quarter of the estimated aggregate product of the rate levied in such financial year by the rating authority.

(3) In this section "assessment for improvement rate", "value of land" and "value of unimproved land" shall have the meanings assigned to those expressions in the Valuation for Rating Act.

Appointment of valuer.
Cap.266.

7.The Council shall, with the approval of the Minister, by resolution appoint one or more persons to value land for the purposes of preparing every draft valuation roll or draft supplementary valuation roll under and in accordance with the Valuation for Rating Act.

Supplementary rate
L.N.39/1965,

8.The rating authority may levy a supplementary rate for any financial year if it thinks it is necessary to do so, having regard to the requirement of the municipality or the county, as the case may be:

Provided that where a site value rate or an improvement rate is levied no such supplementary rates which, when added to the rate or rates previously levied in the same financial year, would exceed either of the limits laid down in the provisos to subsections (1) and (2) of section 6, may be levied without the consent of the Minister.

Special rate
L.N. 39/1965, 6 of 1977, s. 6.

9.(1) The rating authority may levy in any part of the municipality, the township or the county, as the case may be, which is liable to be separately rated in respect of any expenses which the Minister has declared to be special expenses a separate rate (in this Act referred to as a special rate) sufficient to produce the amount estimated to be incurred during the financial year in respect of those expenses.

(2) The amount of any special rate shall not be taken into account in considering whether any site value rate or improvement rate levied by a rating authority in any financial year exceeds either of the limits laid down in the provisos to subsections (1) and (2) of section 6.

Uniformity of rate
L.N.39/1965, 6 of 1977, s. 7.

10. Subject to section 9, any site value rate or improvement rate levied under this Act shall be a rate at a uniform percentage of the rateable value of each rateable property in the municipality, the township or the county, as the case may be:

Provided that the Minister may, on the application of the rating authority, exempt the rating authority from the provision of this section for such period and subject to such conditions as the Minister may specify.

Areas chargeable with rates
L.N. 39/1965.

11. Amounts leviable by the rating authority by means of a rate shall be chargeable—

(a) in the case of amounts leviable to meet liabilities in respect of the general expenses of the rating authority, on the whole area of the rating authority;

(b) in the case of amounts leviable to meet liabilities in respect of the general expenses of an urban council, an area council or a local council, on the whole area of such urban, area or local council;

(c) in the case of amounts leviable to meet liabilities in respect of special expenses, on the contributory place separately chargeable therewith.

Equitable distribution of rates
L.N. 39/1965, 7 of 1968, s. 2.

12.(1) It shall be the duty of the rating authority in adopting any method or methods of rating under this Act to ensure that the costs of the rating authority's general expenses, and of the general expenses of every urban, area or local council in whose area the rating authority levies a rate, are distributed equitably over all parts of the respective areas of the rating authority and the Minister may give such directions to the rating authority as he considers necessary for the purpose of obtaining equitable distribution as aforesaid, and any such authority shall comply therewith.

(2) *(Deleted by 7 of 1968, s. 2.)*

Rating in areas of urban, area and local councils
L.N. 39/1965. Cap.265

13.(1) The rating authority may, upon a request being made by any urban council, area council or local council, levy a rate in the area of such council to meet the expenses of that council:

Provided that any rate so levied shall be of the same type or method as, and shall be levied in addition to the rate or rates levied in the area of such council by the rating authority to meet its own expenses.

(2) The amount of the rate levied in the area of any urban council, area council or local council shall be sufficient to meet all liabilities falling to be discharged by that urban, area or local council, as the case may be, for which provision is not otherwise made, including amounts required by such council to establish or increase to a reasonable level a general reserve fund in accordance with section 218 of the Local Government Act.

(3) The rate or rates levied under this section by a rating authority on behalf of any urban council, area council or local council shall not, without the consent of the Minister, be such as to produce an amount exceeding a quarter of the proceeds of any other rate or rates levied under this Act within the area of that urban, area or local council, as the case may be, for the same financial year by the rating authority.

Fees for collection of rates on behalf of urban, area and local councils
L.N.39/1965.

14.The rating authority shall be entitled to retain out of the proceeds of any rate levied by it under section 13 to meet liabilities in respect of expenses of any urban council, area council or local council, the cost of levying and collecting such rate or two and one-half per centum of the given proceeds of that rate, whichever is the lower.

Notice of rate to be published and valuation roll to be conclusive

15.(1) Every rate levied by the rating authority under this Act shall become due on the first day of January in the financial year for which it is levied and shall become payable on such day in the same financial year as shall be fixed by the rating authority, of which day, and of the amount of which rate, the rating authority shall publish at least thirty days' notice.

(2) For the purposes of the Act, the valuation roll or any supplementary valuation roll in force on the day on which any rate is payable shall be conclusive evidence of all matters included in such roll.

Payment of rates discount and interest

16.(1) When the rating authority has given notice under section 15 of the day on which any rate levied under this Act will become payable, it shall be the duty of every person liable for such rate to pay the amount of such rate at the offices of the rating authority or at any place whether within or without the area of the rating authority to any person authorized by the rating authority to collect such rate on or before such day, failing which proceedings may be taken as hereinafter provided.

(2) The rating authority may allow a discount of not more than five per centum, or such other discount as the rating authority may, with the approval of the Minister, determine on any rate paid on or before the day on which such rate becomes payable or such later day as the rating authority may appoint and any scheme of discount under this section may include provision for a different discount on rates paid on or before different dates.

(3) The rating authority shall charge interest at the rate of one per centum per mensem on any rate remaining unpaid after the day on which the same was payable, and for the purposes of this subsection, a part of a month shall be reckoned as one month.

Enforcement of payment of rate
Cap. 21. Cap.22.

17.(1)If, after the time fixed for the payment of any rate any person fails to pay any such rate due from him and any interest on any such unpaid rate as provided in section 16, the rating authority may cause a written demand to be made upon such person to pay, within fourteen days after service thereof on him, the rate due by such person and interest thereon calculated in accordance with section 16 (13) which demand shall be in the appropriate form in the Second Schedule.

(2) If any person who has had such demand served upon him makes default, the rating authority may take proceedings in a subordinate court of the first class to secure the payment of such rate and interest in the manner hereinafter prescribed.

(3) Every plaint in such proceedings shall set forth the particulars of the land on which the rate was levied, of the rate so due and demanded and of any interest payable thereon.

(4) Every summons issued in proceedings taken under this section shall order the defendant to appear and answer the claim on a day to be therein specified, and the summons may be served—

(a) by post; or

(b) by fixing it on or to some conspicuous part of the land; or

(c) by any mode of service authorized by any rules made under the Civil Procedure Act.

(5) Where judgment is given in favour of the rating authority suing for recovery of rates, the decree of the court shall be in the appropriate form in the Second Schedule.

(6) A decree granted by a subordinate court in favour of the rating authority plaintiff under this section may be enforced by any mode of execution authorized by any rules made under the Civil Procedure Act and, if the sum due under the decree is secured by a charge over the land by virtue of section 19, the decree-holder may apply to the High Court by originating summons to order the sale of such land in enforcement of such charge, and the High Court may make an order directing the sale of such land subject to such conditions and with all such directions usual to the nature of such a summons as the justice of the case may require and such summons and any notice or document relating thereto may be served in the manner provided by subsection (4).

(7) Except as provided in this section, the Civil Procedure Act shall extend to any proceedings to secure the payment of any unpaid rate and to the execution of any decree or order granted or made in any such proceedings.

(8) Notwithstanding anything contained in the Limitation of Actions Act, a suit or proceedings to recover money due in respect of any rate may be commenced at any time within twelve years of the day upon which the rate became due and payable.

Recovery of rates from tenants or occupiers.
Cap.266.

18.(1) If any rate or any part thereof remains unpaid after the day on which the same became payable, the rating authority may serve upon any person paying rent in respect of any land on which such rate was levied or any part thereof to the person from whom the arrears are due, a written notice stating the amount of such arrears, which may include interest calculated in accordance with section 16 (3) and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the rating authority until such arrears and interest have been duly paid and such notice shall operate to transfer to the rating authority the right to recover, receive and give a discharge for such rent.

(2) In this section "occupier" has the meaning assigned to it by the Valuation for Rating Act; and "rent" includes payment made by a lodger.

Rates chargeable on property
L.N.39/1965.

19. Any rate due, together with interest thereon calculated in accordance with section 16, shall be a charge against the land on which the rate was levied and where the title to such property is registered under any law relating to the registration of title to land, the rating authority may deliver a notification of such charge, in the prescribed form, to the registrar who shall register it against the title to that land; and the charge shall take priority in accordance with such law.

Rateable owners liable for rates

20.(1) The rateable owner of any land at the date when a rate levied under this Act becomes due or payable in respect thereof under section 15 shall be liable for payment of the amount of such rate, and,

in the case of joint registered owners or tenants in common, they shall be jointly and severally liable for the rate due or payable thereon.

(2) Where the rateable owner is absent from Kenya any person receiving the rent or being in charge or control of such land shall be liable for such rate.

Statement of payment of rates and other charges

21.(1) Any officer authorized in that behalf by the rating authority shall, upon demand being made by the registered owner or the registered lessee of any land within the area of the rating authority or by his attorney or agent, and upon payment of—

(a) all rates (if any), for a period of twelve years immediately preceding the date of the written statement hereafter mentioned, due in respect of such land on account of rates imposed under this Act or any written law for the time being in force within the municipality; and

(b) all charges (if any), for a period of twelve years immediately preceding such date, due in respect of such land for sewerage, sanitary and refuse removal services and lawfully imposed under any other written law or under any by-laws made thereunder; and

(c) all sums (if any) due on account of any expenses incurred or advances made by the Council under the provisions of any written law, make and deliver to such person a written statement in the appropriate form in the Second Schedule.

(2) The statement mentioned in subsection (1) may be expressed to be valid for any period not exceeding three months from the date of the statement if so requested by the rateable owner of the land or his attorney or agent, and upon payment of the rates and other charges referred to in subparagraphs (a), (b) and (c) of subsection (1) estimated to become payable within the period of validity of such statement.

Exemption from, and remission of, rates L.N. 264/1965, Cap.266.

22.(1) No area rate or agricultural rental value rate shall be imposed on any land which would, under the Valuation for Rating Act or any rules made thereunder, be land in respect of which no valuation for the purposes of any rate may be made.

(2) Subject to any rules made under section 27, the rating authority may, with the approval of the Minister, reduce or remit the payment of any rate levied under this Act on any land:

Provided that the Minister may, on the application of the rating authority, dispense in writing with the need to seek his approval in respect of any class of case or in respect of any specific area of the municipality.

Contribution in lieu of rates. Cap.266.

23.(1) There shall be paid to the rating authority—

(a) by the Government in respect of Government land; and

(b) by the Community in respect of land vested in the Community, or any officer or authority of the Community,

an annual contribution in lieu of any rates levied under this Act for each and every financial year.

(2) The contribution in lieu of rates payable under this section shall be calculated in accordance with the Valuation for Rating Act and any rules or regulations made thereunder.

Evidence

24.In any proceeding to levy or recover rates under this Act or consequent upon the levying or recovering of any such rates as well as in other proceedings under this Act—

(a) any valuation roll or other roll prepared for the purpose of rating, and records of the rating authority and all entries made therein and extracts or certified copies thereof signed by an officer authorized in that behalf by the rating authority, and also all copies of any newspapers containing any notice necessary to be proved; and

(b) any certificate issued by an officer authorized in that behalf by the rating authority, setting forth the name and address of the person in default, the amount of the rate due by him and particulars of the interest thereon as demanded; the fact that such person has failed to pay the rate; the fact that such person has been served (in accordance with section 26) and has made default in complying with a notice as aforesaid requiring him to make payment of the said rate and interest; and the fact that such rate and interest do not exceed the maximum amounts prescribed by or under this Act,

shall be admissible in evidence upon production thereof, and shall be received as prima facie evidence of the facts therein stated:

Provided that any party to any such proceedings may tender evidence to prove the contrary.

Jurisdiction of magistrates

Cap.10.

25.Notwithstanding anything to the contrary in the Magistrate's Courts Act, any magistrate empowered to hold a subordinate court of the first class shall have jurisdiction to hear and determine suits for the recovery of rates under this Act.

Publication and service of notices, etc.

26.(1) Except where otherwise provided by this Act, any notice required to be published under this Act by the rating authority shall be published by advertisement once in the Gazette and in one or more newspapers circulating in the municipality.

(2) Any notice, demand or other document required or authorized to be sent or served under or for the purposes of this Act may be sent or served either—

(a) by delivering it to the person to or on whom it is to be sent or served; or

(b) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; or

(c) by ordinary or registered post; or

(d) by delivering it to some person on the premises to which it relates, or, if there is no person on the premises to whom it can be delivered, then by fixing it on or to some conspicuous part of the rateable property; or

(e) by any method which may be prescribed:

Provided that, if the rating authority, having attempted to send or serve a notice, demand or other document by one of the methods provided in paragraphs (a), (b), (c), (d) and (e), has reason to believe that such notice has not been received by the person to whom it was addressed, it may advertise, in the manner provided in subsection (1), the general purport of such notice, demand or other document, and thereupon the notice, demand or other document shall be deemed to have been received by that person, and the advertisement may refer to one or more notices, demands or other documents and to one or more rateable owners.

(3) Any notice, demand or other document by this Act required or authorized to be served on the owner or occupier of any premises may be addressed by the description "owner" or "occupier" of the premises (naming them), without further name or description,

(4) When any notice, demand or other document required or authorized to be sent or served under or for the purposes of this Act has been sent by ordinary or registered post, delivery or service thereof shall, unless the contrary is proved, be deemed to have been effected at the time at which a letter would be delivered in the ordinary course of the post.

Power to make rules

L.N.39/1965.

27.(1) The Minister may make rules generally for the better carrying out of the provisions and purposes of this Act, and different rules may be made in respect of different methods of rating or different rating areas.

(2) Without prejudice to the generality of the foregoing the Minister's power to make rules shall extend to the following purposes—

(a) prescribing the qualifications of any valuer to be appointed under section 7;

(b) requiring and facilitating the preparation, in any area, of rolls, other than valuation or supplementary valuation rolls, for the purpose of rating;

(c) prescribing the form and contents of any such rolls, other than valuation or supplementary valuation rolls;

(d) requiring that any provisional rolls, other than any valuation rolls or supplementary valuation rolls, shall be kept open to public inspection and that objections thereto shall be considered by a committee upon which shall be represented every urban area or local council in respect of the whole or any part of the area of which the rolls have been prepared;

(e) governing the procedure of any such committee as aforesaid;

(f) prescribing the form of, and regulating the procedure for, making objections;

(g) making provision for the correction, without resort to any procedure for objections, of any mistake, clerical error or other discrepancy in any roll, provided that such correction does not affect the amount payable in respect of the assessment or assessments concerned;

(h) the collecting of rates;

(i) prescribing cases in which rates may or shall be reduced or remitted:

(j) exempting any person or class of persons from the payment of rates or with respect to specified classes or cases;

(k) prescribing the cases or circumstances in which the rating authority may or shall grant exemption from the payment of rates or of any rate or class of rates and the persons and classes of persons who may be exempted;

(l) prescribing the extent to which any land shall be exempted from the payment of area rates thereon.

Saving

28.(1) Where, immediately before the coming into operation of this Act, there is in force in any area of the rating area a form of rating which the rating authority is empowered to adopt under this Act, that form of rating shall continue to apply in respect of that area as if adopted under this Act by the rating authority, subject to such modifications (if any) as may be necessary to bring such form of rating into conformity with the provisions and requirements of this Act and any rules made thereunder.

(2) Any rules, in force immediately before the coming into operation of this Act, in respect of any form of rating which is continued by virtue of subsection (1) shall be deemed to have been made under section 27 and shall, except to the extent of any repugnance to or inconsistency with the provisions or requirements of this Act, continue in force in respect of such form of rating until altered or revoked under this Act; and where any roll, other than a valuation roll or supplementary valuation roll, has been prepared in respect of any area for the purposes of any form of rating so continued it shall not be necessary for a further roll to be prepared in respect of that area until the expiration of such period as the Minister may determine.