

REPUBLIC OF SOUTH AFRICA

**LOCAL GOVERNMENT:
MUNICIPAL PROPERTY RATES
BILL**

(As presented by the Portfolio Committee on Provincial and Local Government (National Assembly), after consideration of Local Government: Property Rates Bill [B19 – 2003])

(MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT)

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BILL

To regulate the power of a municipality to impose rates on property; to exclude certain properties from rating in the national interest; to make provision for municipalities to implement a transparent and fair system of exemptions, reductions and rebates through their rating policies; to make provision for fair and equitable valuation methods of properties; to make provision for an objections and appeals process; to amend the Local Government: Municipal Systems Act, 2000, so as to make further provision for the serving of documents by municipalities; to amend or repeal certain legislation; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Constitution entitles municipalities to impose rates on property in their areas, subject to regulation in terms of national legislation;

AND WHEREAS the Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities;

AND WHEREAS there is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfill its developmental responsibilities;

AND WHEREAS income derived from property rates is a critical source of revenue for municipalities to achieve their constitutional objectives, especially in areas that have been neglected in the past due to racially discriminatory laws;

AND WHEREAS it is essential that municipalities exercise their power to impose rates within a statutory framework that not only enhances certainty, uniformity and simplicity across the nation, but also takes into account historical imbalances and the rates burden on the poor;

AND WHEREAS the Constitution confers on Parliament the power to regulate the exercise by municipalities of their fiscal powers;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF ACT

Section

CHAPTER 1

INTERPRETATION

- | | | |
|----|-------------|---|
| 1. | Definitions | 5 |
|----|-------------|---|

CHAPTER 2

RATING

- | | | |
|----|---------------------|--|
| 2. | Power to levy rates | |
|----|---------------------|--|

Part 1: Rates policy

- | | | |
|----|--|----|
| 3. | Adoption and contents of rates policy | 10 |
| 4. | Community participation | |
| 5. | Annual review of rates policy | |
| 6. | By-laws to give effect to rates policy | |

Part 2: Levying of rates

- | | | |
|-----|---|----|
| 7. | Rates to be levied on all rateable property | 15 |
| 8. | Differential rates | |
| 9. | Properties used for multiple purposes | |
| 10. | Levying of rates on property in sectional title schemes | |
| 11. | Amount due for rates | |
| 12. | Period for which rates may be levied | 20 |
| 13. | Commencement of rates | |
| 14. | Promulgation of resolutions levying rates | |
| 15. | Exemptions, reductions and rebates | |

Part 3: Limitations on levying of rates

- | | | |
|-----|---|----|
| 16. | Constitutionally impermissible rates | 25 |
| 17. | Other impermissible rates | |
| 18. | Exemption of municipalities from provisions of section 17 | |
| 19. | Impermissible differentiation | |
| 20. | Limits on annual increases of rates | |
| 21. | Compulsory phasing-in of certain rates | 30 |

Part 4: Additional rates

- | | | |
|-----|----------------------|--|
| 22. | Special rating areas | |
|-----|----------------------|--|

Part 5: Municipal register of properties

- | | | |
|-----|------------------------|--|
| 23. | Register of properties | |
|-----|------------------------|--|

CHAPTER 3

35

LIABILITY FOR RATES

- | | | |
|-----|---|----|
| 24. | Property rates payable by owners | |
| 25. | Payment of rates on property in sectional title schemes | |
| 26. | Method and time of payment | |
| 27. | Accounts to be furnished | 40 |
| 28. | Recovery of rates in arrears from tenants and occupiers | |
| 29. | Recovery of rates from agents | |

CHAPTER 4**GENERAL VALUATION OF RATEABLE PROPERTY***Part 1: General*

| | | |
|-----|--|---|
| 30. | General valuation and preparation of valuation rolls | |
| 31. | Date of valuation | 5 |
| 32. | Commencement and period of validity of valuation rolls | |

Part 2: Municipal valuers

| | | |
|-----|-------------------------------------|----|
| 33. | Designation of municipal valuers | |
| 34. | Functions of municipal valuers | |
| 35. | Assistant municipal valuers | 10 |
| 36. | Data-collectors | |
| 37. | Delegations by municipal valuers | |
| 38. | Municipal partnerships | |
| 39. | Qualifications of municipal valuers | |
| 40. | Prescribed declaration | 15 |
| 41. | Inspection of property | |
| 42. | Access to information | |
| 43. | Conduct of valuers | |
| 44. | Protection of information | |

CHAPTER 5 20**VALUATION CRITERIA**

| | | |
|-----|--|--|
| 45. | Valuation | |
| 46. | General basis of valuation | |
| 47. | Valuation of property in sectional title schemes | |

CHAPTER 6 25**VALUATION ROLLS**

| | | |
|-----|---|----|
| 48. | Contents of valuation rolls | |
| 49. | Public notice of valuation rolls | |
| 50. | Inspection of, and objections to, valuation rolls | |
| 51. | Processing of objections | 30 |
| 52. | Compulsory review of decisions of municipal valuer | |
| 53. | Notification of outcome of objections and furnishing of reasons | |
| 54. | Right of appeal | |
| 55. | Adjustments or additions to valuation rolls | |

CHAPTER 7 35**VALUATION APPEAL BOARDS**

| | | |
|-----|--|----|
| 56. | Establishment of valuation appeal boards | |
| 57. | Functions | |
| 58. | Composition | |
| 59. | Disqualifications | 40 |
| 60. | Term of office | |
| 61. | Conditions of appointment | |
| 62. | Conduct of members | |
| 63. | Termination of membership | |
| 64. | Alternates | 45 |
| 65. | Meetings | |
| 66. | Administrative assistance | |
| 67. | Procedures | |
| 68. | Quorums and decisions | |

| | | |
|-----|---|---|
| 69. | Decisions affecting valuation rolls | |
| 70. | Orders as to costs | |
| 71. | Committees of appeal boards | |
| 72. | Inspection of property | |
| 73. | Access to information | 5 |
| 74. | Protection of information | |
| 75. | Powers of appeal boards | |
| 76. | Proceedings by, or against, appeal boards | |

CHAPTER 8

UPDATING OF VALUATION ROLLS 10

| | | |
|-----|------------------------------|--|
| 77. | General | |
| 78. | Supplementary valuations | |
| 79. | Amendment of valuation rolls | |

CHAPTER 9

MISCELLANEOUS MATTERS 15

| | | |
|-----|---|---------------------------|
| 80. | Condonation of non-compliance with time periods | 81. Provincial monitoring |
| 82. | National monitoring and reporting | |
| 83. | Regulations | |
| 84. | Consultative processes before promulgation of regulations | |
| 85. | Copyright of valuation rolls and other data | 20 |
| 86. | Offences | |
| 87. | Application of Act when in conflict with other laws | |
| 88. | Transitional arrangement: Valuation and rating under prior legislation | |
| 89. | Transitional arrangement: Use of existing valuation rolls and supplementary valuation rolls | 25 |
| 90. | Transitional arrangement: Existing rates policy | |
| 91. | Transitional arrangement: Application of section 21 | |
| 92. | Transitional arrangement: Liability of bodies corporate of sectional title schemes | |
| 93. | Transitional arrangement: Special rating areas | 30 |
| 94. | Amendment of section 115 of Act 32 of 2000 | |
| 95. | Amendment and repeal of legislation | |
| 96. | Short title and commencement | |

SCHEDULE

| | |
|--|----|
| Part 1: Laws of the former Province of the Cape of Good Hope | 35 |
| Part 2: Laws of the former Province of Natal | |
| Part 3: Laws of the former Province of the Orange Free State | |
| Part 4: Laws of the former Province of the Transvaal | |
| Part 5: Other laws | |

CHAPTER 1 40

INTERPRETATION

Definitions

- (1) In this Act, unless the context indicates otherwise—
 - “**agent**”, in relation to the owner of a property, means a person appointed by the owner of the property— 45
 - (a) to receive rental or other payments in respect of the property on behalf of the owner; or
 - (b) to make payments in respect of the property on behalf of the owner;
 - “**agricultural purpose**”, in relation to the use of a property, excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game; 50
 - “**annually**” means once every financial year;

- “**appeal board**” means a valuation appeal board established in terms of section 56;
- “**assistant municipal valuer**” means a person designated as an assistant municipal valuer in terms of section 35(1) or (2);
- “**category**” —
- (a) in relation to property, means a category of properties determined in terms of section 8; and 5
 - (b) in relation to owners of properties, means a category of owners determined in terms of section 15(2);
- “**data-collector**” means a person designated as a data-collector in terms of section 36; 10
- “**date of valuation**” means the date determined by a municipality in terms of section 31(1);
- “**district management area**” means a part of a district municipality which in terms of section 6 of the Municipal Structures Act has no local municipality and is governed by that municipality alone; 15
- “**district municipality**” means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155(1) of the Constitution as a category C municipality;
- “**effective date**” —
- (a) in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32(1); or 20
 - (b) in relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of section 78(2)(b);
- “**exclusion**”, in relation to a municipality’s rating power, means a restriction of that power as provided for in section 17; 25
- “**exemption**”, in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15;
- “**financial year**” means the period starting from 1 July in a year to 30 June the next year;
- “**Income Tax Act**” means the Income Tax Act, 1962 (Act No. 58 of 1962); 30
- “**land reform beneficiary**”, in relation to a property, means a person who—
- (a) acquired the property through—
 - (i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or
 - (ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); 35
 - (b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or
 - (c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to section 25(6) and (7) of the Constitution be enacted after this Act has taken effect; 40
- “**land tenure right**” means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004;
- “**local community**”, in relation to a municipality—
- (a) means that body of persons comprising—
 - (i) the residents of the municipality; 45
 - (ii) the ratepayers of the municipality;
 - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
 - (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and 50
 - (b) includes, more specifically, the poor and other disadvantaged sections of such body of persons;
- “**local municipality**” means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B municipality; 55
- “**market value**”, in relation to a property, means the value of the property determined in accordance with section 46; 60
- “**MEC for local government**” means the member of the Executive Council of a province who is responsible for local government in that province;

- “**metropolitan municipality**” means a municipality that has exclusive executive and legislative authority in its area, and which is described in section 155 (1) of the Constitution as a category A municipality;
- “**Minister**” means the Cabinet member responsible for local government;
- “**multiple purposes**”, in relation to a property, means the use of a property for more than one purpose; 5
- “**municipal council**” or “**council**” means a municipal council referred to in section 18 of the Municipal Structures Act;
- “**Municipal Finance Management Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003); 10
- “**municipality**”—
- (a) as a corporate entity, means a municipality described in section 2 of the Municipal Systems Act; and
- (b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998); 15
- “**municipal manager**” means a person appointed in terms of section 82 of the Municipal Structures Act;
- “**Municipal Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- “**Municipal Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); 20
- “**municipal valuer**” or “**valuer of a municipality**” means a person designated as a municipal valuer in terms of section 33(1);
- “**newly rateable property**” means any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding— 25
- (a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- (b) a property identified by the Minister by notice in the *Gazette* where the phasing-in of a rate is not justified; 30
- “**occupier**”, in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;
- “**organ of state**” means an organ of state as defined in section 239 of the Constitution;
- “**owner**”— 35
- (a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered; 40
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, 45
- provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:
- (i) A trustee, in the case of a property in a trust excluding state trust land; 50
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management; 55
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or 60
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

- “permitted use”**, in relation to a property, means the limited purposes for which the property may be used in terms of —
- (a) any restrictions imposed by —
 - (i) a condition of title;
 - (ii) a provision of a town planning or land use scheme; or
 - (iii) any legislation applicable to any specific property or properties; or
 - (b) any alleviation of any such restrictions;
- “person”** includes an organ of state; **“prescribe”** means prescribe by regulation in terms of section 83;
- “property”** means—
- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
 - (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
 - (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
 - (d) public service infrastructure;
- “property register”** means a register of properties referred to in section 23;
- “protected area”** means an area that is or has to be listed in the register referred to in section 10 of the Protected Areas Act;
- “Protected Areas Act”** means the National Environmental Management: Protected Areas Act, 2003;
- “publicly controlled”** means owned by or otherwise under the control of an organ of state, including —
- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - (b) a municipality; or
 - (c) a municipal entity as defined in the Municipal Systems Act;
- “public service infrastructure”** means publicly controlled infrastructure of the following kinds:
- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
 - (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
 - (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
 - (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
 - (e) railway lines forming part of a national railway system;
 - (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
 - (g) runways or aprons at national or provincial airports;
 - (h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
 - (i) any other publicly controlled infrastructure as may be prescribed; or
 - (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);
- “rate”** means a municipal rate on property envisaged in section 229(1)(a) of the Constitution;
- “rateable property”** means property on which a municipality may in terms of section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of section 17;
- “rebate”**, in relation to a rate payable on a property, means a discount granted in terms of section 15 on the amount of the rate payable on the property;
- “reduction”**, in relation to a rate payable on a property, means the lowering in terms of section 15 of the amount for which the property was valued and the rating of the property at that lower amount;
- “register”**—

- (a) means to record in a register in terms of—
 - (i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
 - (ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and
- (b) includes any other formal act in terms of any other legislation to record—
 - (i) a right to use land for or in connection with mining purposes; or 5
 - (ii) a land tenure right;

“residential property” means a property included in a valuation roll in terms of section 48 (2) (b) as residential;

“Sectional Titles Act” means the Sectional Titles Act, 1986 (Act No. 95 of 1986);

“sectional title scheme” means a scheme defined in section 1 of the Sectional Titles Act; 10

“sectional title unit” means a unit defined in section 1 of the Sectional Titles Act;

“specified public benefit activity” means an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act; 15

“state trust land” means land owned by the state—

- (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- (b) over which land tenure rights were registered or granted; or
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); 20

“this Act” includes regulations made in terms of section 83.

(2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended. 25

CHAPTER 2

RATING

Power to levy rates

- 2. (1) A metropolitan or local municipality may levy a rate on property in its area.
- (2) (a) A district municipality may not levy a rate on property except on property in a district management area within the municipality. 30
- (b) Any reference in this Act to the area of a municipality must, in the case of a district municipality, be read as a reference to a district management area within the district municipality.
- (3) A municipality must exercise its power to levy a rate on property subject to— 35
 - (a) section 229 and any other applicable provisions of the Constitution;
 - (b) the provisions of this Act; and
 - (c) the rates policy it must adopt in terms of section 3.

Part 1: Rates policy

Adoption and contents of rates policy 40

- 3. (1) The council of a municipality must adopt a policy consistent with this Act on the levying of rates on rateable property in the municipality.
- (2) A rates policy adopted in terms of subsection (1) takes effect on the effective date of the first valuation roll prepared by the municipality in terms of this Act, and must accompany the municipality’s budget for the financial year concerned when the budget is tabled in the municipal council in terms of section 16(2) of the Municipal Finance Management Act. 45
- (3) A rates policy must—
 - (a) treat persons liable for rates equitably;
 - (b) determine the criteria to be applied by the municipality if it— 50
 - (i) levies different rates for different categories of properties;
 - (ii) exempts a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate on their properties;

- (iii) grants to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rate payable in respect of their properties; or
 - (iv) increases rates;
 - (c) determine, or provide criteria for the determination of — 5
 - (i) categories of properties for the purpose of levying different rates as contemplated in paragraph (b)(i); and
 - (ii) categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions as contemplated in paragraph (b)(ii) or (iii); 10
 - (d) determine how the municipality's powers in terms of section 9(1) must be exercised in relation to properties used for multiple purposes;
 - (e) identify and quantify in terms of cost to the municipality and any benefit to the local community—
 - (i) exemptions, rebates and reductions; 15
 - (ii) exclusions referred to in section 17(1)(a), (e), (g), (h) and (i); and
 - (iii) rates on properties that must be phased in in terms of section 21;
 - (f) take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them;
 - (g) take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax reductions because of those activities, in the case of property owned and used by such organisations for those activities; 20
 - (h) take into account the effect of rates on public service infrastructure;
 - (i) allow the municipality to promote local, social and economic development; 25
and
 - (j) identify, on a basis as may be prescribed, all rateable properties in the municipality that are not rated in terms of section 7(2)(a).
- (4) When considering the criteria to be applied in respect of any exemptions, rebates and reductions on properties used for agricultural purposes, a municipality must take into account— 30
- (a) the extent of services provided by the municipality in respect of such properties;
 - (b) the contribution of agriculture to the local economy;
 - (c) the extent to which agriculture assists in meeting the service delivery and development obligations of the municipality; and 35
 - (d) the contribution of agriculture to the social and economic welfare of farm workers.
- (5) Any exemptions, rebates or reductions referred to in subsection (3) and provided for in a rates policy adopted by a municipality must comply and be implemented in accordance with a national framework that may be prescribed after consultation with organised local government. 40
- (6) No municipality may grant relief in respect of the payment of a rate—
- (a) to a category of owners of properties, or to the owners of a category of properties, other than by way of an exemption, a rebate or a reduction 45 provided for in its rates policy and granted in terms of section 15; or
 - (b) to the owners of properties on an individual basis.

Community participation

4. (1) Before a municipality adopts its rates policy, the municipality must—
- (a) follow a process of community participation in accordance with Chapter 4 of the Municipal Systems Act; and 50
 - (b) comply with subsection (2).
- (2) The municipal manager of the municipality must—
- (a) conspicuously display the draft rates policy for a period of at least 30 days—
 - (i) at the municipality's head and satellite offices and libraries; and 55
 - (ii) if the municipality has an official website or a website available to it as envisaged in section 21B of the Municipal Systems Act, on that website; and
 - (b) advertise in the media a notice—
 - (i) stating— 60

- (aa) that a draft rates policy has been prepared for submission to the council; and
 - (bb) that the draft rates policy is available at the municipality's head and satellite offices and libraries for public inspection during office hours and, if the municipality has an official website or a website available to it, that the draft rates policy is also available on that website; and
- (ii) inviting the local community to submit comments and representations to the municipality concerned within a period specified in the notice which may not be less than 30 days. (3) A municipal council must take all comments and representations made to it or received by it into account when it considers the draft rates policy.

Annual review of rates policy

5. (1) A municipal council must annually review, and if necessary, amend its rates policy. Any amendments to a rates policy must accompany the municipality's annual budget when it is tabled in the council in terms of section 16 (2) of the Municipal Finance Management Act.

(2) Section 3(3) to (6), read with the necessary changes as the context may require, apply to any amendment of a rates policy. Community participation in amendments to a rates policy must be effected through the municipality's annual budget process in terms of sections 22 and 23 of the Municipal Finance Management Act.

By-laws to give effect to rates policy

6. (1) A municipality must adopt by-laws to give effect to the implementation of its rates policy.

(2) By-laws in terms of subsection (1) may differentiate between—

- (a) different categories of properties; and
- (b) different categories of owners of properties liable for the payment of rates.

Part 2: Levying of rates

Rates to be levied on all rateable property

7. (1) When levying rates, a municipality must, subject to subsection (2), levy rates on all rateable property in its area or, in the case of a district municipality, on all rateable property in the district management area.

(2) Subsection (1) does not—

- (a) oblige a municipality to levy rates on—
 - (i) properties of which that municipality is the owner;
 - (ii) public service infrastructure owned by a municipal entity;
 - (iii) properties referred to in paragraph (b) of the definition of "property" in section 1; or
 - (iv) properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws or practices; or
- (b) prevent a municipality from granting in terms of section 15 exemptions from, rebates on or reductions in rates levied in terms of subsection (1).

Differential rates

8. (1) Subject to section 19, a municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property, which may include categories determined according to the—

- (a) use of the property;
- (b) permitted use of the property; or
- (c) geographical area in which the property is situated.

(2) Categories of rateable property that may be determined in terms of subsection (1) include the following:

- (a) Residential properties;
- (b) industrial properties;

- (c) business and commercial properties;
- (d) farm properties used for—
 - (i) agricultural purposes;
 - (ii) other business and commercial purposes;
 - (iii) residential purposes; or
 - (iv) purposes other than those specified in subparagraphs (i) to (iii);
- (e) farm properties not used for any purpose;
- (f) smallholdings used for—
 - (i) agricultural purposes;
 - (ii) residential purposes;
 - (iii) industrial purposes;
 - (iv) business and commercial purposes; or
 - (v) purposes other than those specified in subparagraphs (i) to (iv);
- (g) state-owned properties;
- (h) municipal properties;
- (i) public service infrastructure;
- (j) privately owned towns serviced by the owner;
- (k) formal and informal settlements;
- (l) communal land as defined in section 1 of the Communal Land Rights Act, 2004;
- (m) state trust land;
- (n) properties—
 - (i) acquired through the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993), or the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); or
 - (ii) which is subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996);
- (o) protected areas;
- (p) properties on which national monuments are proclaimed;
- (q) properties owned by public benefit organisations and used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act; or
- (r) properties used for multiple purposes, subject to section 9.

Properties used for multiple purposes

- 9.** (1) A property used for multiple purposes must, for rates purposes, be assigned to a category determined by the municipality for properties used for—
- (a) a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated;
 - (b) a purpose corresponding with the dominant use of the property; or
 - (c) multiple purposes in terms of section 8(2)(r).
- (2) A rate levied on a property assigned in terms of subsection (1)(c) to a category of properties used for multiple purposes must be determined by—
- (a) apportioning the market value of the property, in a manner as may be prescribed, to the different purposes for which the property is used; and
 - (b) applying the rates applicable to the categories determined by the municipality for properties used for those purposes to the different market value apportionments.

Levying of rates on property in sectional title schemes

- 10.** (1) A rate on property which is subject to a sectional title scheme must be levied on the individual sectional title units in the scheme and not on the property as a whole.
- (2) Subsection (1) must be read subject to section 92.

Amount due for rates

- 11.** (1) A rate levied by a municipality on property must be an amount in the Rand—
- (a) on the market value of the property;
 - (b) in the case of public service infrastructure, on the market value of the public service infrastructure less 30% of that value as contemplated in section

17(1)(a), or on such lower percentage as the Minister may determine in terms of section 17 (4); or

- (c) in the case of property to which section 17(1)(h) applies, on the market value of the property less the amount stated in that section, or on such other amount as the Minister may determine in terms of section 17(3). 5

(2) A rate levied by a municipality on properties with a market value below a prescribed valuation level may, instead of a rate determined in terms of subsection (1), be a uniform fixed amount per property.

(3) If a municipality opts in terms of subsection (2) to determine a uniform fixed amount per property falling within a specific category, such fixed amount may not exceed a prescribed percentage of the amount due for rates payable on a property in that category with a market value equal to the prescribed valuation level. 10

Period for which rates may be levied

12. (1) When levying rates, a municipality must levy the rate for a financial year. A rate lapses at the end of the financial year for which it was levied. 15

(2) The levying of rates must form part of a municipality's annual budget process as set out in Chapter 4 of the Municipal Finance Management Act. A municipality must annually at the time of its budget process review the amount in the Rand of its current rates in line with its annual budget for the next financial year.

(3) A rate levied for a financial year may be increased during a financial year only as provided for in section 28 (6) of the Municipal Finance Management Act. 20

Commencement of rates

13. (1) A rate becomes payable—

- (a) as from the start of a financial year; or
 (b) if the municipality's annual budget is not approved by the start of the financial year, as from such later date when the municipality's annual budget, including a resolution levying rates, is approved by the provincial executive in terms of section 26 of the Municipal Finance Management Act. 25

(2) Subsection (1) does not affect the application of sections 17(2)(b) and (c) and (5)(b) and (c), 55 and 78(4). 30

Promulgation of resolutions levying rates

14. (1) A rate is levied by a municipality by resolution passed by the municipal council with a supporting vote of a majority of its members.

(2) A resolution levying rates in a municipality must be promulgated by publishing the resolution in the *Provincial Gazette*. 35

(3) Whenever a municipality passes a resolution in terms of subsection (1), the municipal manager must, without delay—

- (a) conspicuously display the resolution for a period of at least 30 days—
 (i) at the municipality's head and satellite offices and libraries; and
 (ii) if the municipality has an official website or a website available to it as envisaged in section 21B of the Municipal Systems Act, on that website; and 40

- (b) advertise in the media a notice stating that—
 (i) a resolution levying a rate on property has been passed by the council; and
 (ii) the resolution is available at the municipality's head and satellite offices and libraries for public inspection during office hours and, if the municipality has an official website or a website available to it, that the resolution is also available on that website. 45

Exemptions, reductions and rebates 50

15. (1) A municipality may in terms of criteria set out in its rates policy—

- (a) exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate levied on their property; or

- (b) grant to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.
- (2) When granting in terms of subsection (1) exemptions, rebates or reductions in respect of owners of categories of properties, a municipality may determine such categories in accordance with section 8(2), and when granting exemptions, rebates or reductions in respect of categories of owners of properties, such categories may include—
- (a) indigent owners;
 - (b) owners dependent on pensions or social grants for their livelihood;
 - (c) owners temporarily without income;
 - (d) owners of property situated within an area affected by —
 - (i) a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
 - (ii) any other serious adverse social or economic conditions;
 - (e) owners of residential properties with a market value lower than an amount determined by the municipality; or
 - (f) owners of agricultural properties who are *bona fide* farmers.
- (3) The municipal manager must annually table in the council of the municipality a—
- (a) list of all exemptions, rebates and reductions granted by the municipality in terms of subsection (1) during the previous financial year; and
 - (b) statement reflecting the income for the municipality foregone during the previous financial year by way of—
 - (i) such exemptions, rebates and reductions;
 - (ii) exclusions referred to in section 17(1)(a), (e), (g), (h) and (i); and
 - (iii) the phasing-in discount granted in terms of section 21.
- (4) All exemptions, rebates and reductions projected for a financial year must be reflected in the municipality's annual budget for that year as—
- (a) income on the revenue side; and
 - (b) expenditure on the expenditure side.

Part 3: Limitations on levying of rates

Constitutionally impermissible rates

- 16.** (1) In terms of section 229(2)(a) of the Constitution, a municipality may not exercise its power to levy rates on property in a way that would materially and unreasonably prejudice—
- (a) national economic policies;
 - (b) economic activities across its boundaries; or
 - (c) the national mobility of goods, services, capital or labour.
- (2) (a) If a rate on a specific category of properties, or a rate on a specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (1), the Minister, after notifying the Minister of Finance, must, by notice in the *Gazette*, give notice to the relevant municipality or municipalities that the rate must be limited to an amount in the Rand specified in the notice.
- (b) A municipality affected by a notice referred to in paragraph (a) must give effect to the notice and, if necessary, adjust its budget for the next financial year accordingly.
- (3) (a) Any sector of the economy, after consulting the relevant municipality or municipalities and organised local government, may, through its organised structures, request the Minister to evaluate evidence to the effect that a rate on any specific category of properties, or a rate on any specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (1).
- (b) If the Minister is convinced by the evidence referred to in paragraph (a) that a rate on any specific category of properties, or a rate on any specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (1), the Minister must act in terms of subsection (2).
- (4) A notice issued in terms of subsection (2) must give the reasons why a rate on the relevant category of properties, or a rate on the relevant category of properties above the amount specified in the notice, is materially and unreasonably prejudicing a matter listed in subsection (1).

(5) The Minister, after consultation with the Minister of Finance, may by notice in the *Gazette* issue guidelines to assist municipalities in the exercise of their power to levy rates consistent with subsection (1).

Other impermissible rates

17. (1) A municipality may not levy a rate— 5
- (a) on the first 30% of the market value of public service infrastructure;
 - (b) on any part of the seashore as defined in the Seashore Act, 1935 (Act No. 21 of 1935);
 - (c) on any part of the territorial waters of the Republic as determined in terms of the Maritime Zones Act, 1994 (Act No. 15 of 1994); 10
 - (d) on any islands of which the state is the owner, including the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948);
 - (e) on those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial, business, agricultural or residential purposes; 15
 - (f) on mineral rights within the meaning of paragraph (b) of the definition of “property” in section 1; 20
 - (g) on a property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses ten years from the date on which such beneficiary’s title was registered in the office of the Registrar of Deeds;
 - (h) on the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality— 25
 - (i) for residential properties; or
 - (ii) for properties used for multiple purposes, provided one or more components of the property are used for residential purposes; or
 - (i) on a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship. 30
- (2) (a) The exclusion from rates of a property referred to in subsection (1)(e) lapses if the declaration of that property as a special nature reserve, national park, nature reserve or national botanical garden, or as part of such a reserve, park or botanical garden, is withdrawn in terms of the applicable Act mentioned in that subsection. 35
- (b) If the property in respect of which the declaration is withdrawn is privately owned, the owner, upon withdrawal of the declaration, becomes liable to the municipality concerned for any rates that, had it not been for subsection (1) (e), would have been payable on the property during the period commencing from the effective date of the current valuation roll of the municipality. If the property was declared as a protected area after the effective date of the current valuation roll, rates are payable only from the date of declaration of the property. 40
- (c) The amount for which an owner becomes liable in terms of paragraph (b) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality. 45
- (d) Paragraphs (b) and (c) apply only if the declaration of the property was withdrawn because of—
- (i) a decision by the private owner for any reason to withdraw from the agreement concluded between the private owner and the state in terms of the Protected Areas Act, and in terms of which the private owner initially consented to the property being declared as a protected area; or 50
 - (ii) a decision by the state to withdraw from such agreement because of a breach of the agreement by the private owner. 55
- (3) The Minister, acting with the concurrence of the Minister of Finance, may from time to time by notice in the *Gazette*, increase the monetary threshold referred to in subsection (1)(h) to reflect inflation.
- (4) The Minister may, by notice in the *Gazette*, lower the percentage referred to in subsection (1)(a), but only after consultation with— 60

- (a) relevant Cabinet members responsible for the various aspects of public service infrastructure;
 - (b) organised local government; and
 - (c) relevant public service infrastructure entities.
- (5) (a) The exclusion from rates of a property referred to in subsection (1)(i) lapses if the property— 5
- (i) is disposed of by the religious community owning it; or
 - (ii) is no longer used primarily as a place of public worship by a religious community or, in the case of an official residence contemplated in that subsection, is no longer used as such an official residence. 10
- (b) If the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that, had it not been for subsection (1)(i), would have been payable on the property during the period of one year preceding the date on which the exclusion lapsed. 15
- (c) The amount for which the religious community becomes liable in terms of paragraph (b) must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.

Exemption of municipalities from provisions of section 17

- 18.** (1) A municipality may apply, in writing, to the Minister to be exempted from paragraph (a), (e), (g) or (h) of section 17(1) if it can demonstrate that an exclusion in terms of the relevant paragraph is compromising or impeding its ability or right to exercise its powers or to perform its functions within the meaning of section 151(4) of the Constitution. 20
- (2) Any exemption granted by the Minister in terms of subsection (1)— 25
- (a) must be in writing; and
 - (b) is subject to such limitations and conditions as the Minister may determine.

Impermissible differentiation

- 19.** (1) A municipality may not levy—
- (a) different rates on residential properties, except as provided for in sections 11(1)(b), 21 and 89; 30
 - (b) a rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties determined in terms of section 11(1)(a);
 - (c) rates which unreasonably discriminate between categories of non-residential properties; or 35
 - (d) additional rates except as provided for in section 22.
- (2) The ratio referred to in subsection (1)(b) may only be prescribed with the concurrence of the Minister of Finance.

Limits on annual increases of rates

- 20.** (1) The Minister may, with the concurrence of the Minister of Finance and by notice in the *Gazette*, set an upper limit on the percentage by which rates on properties or a rate on a specific category of properties may be increased. 40
- (2) Different limits may be set in terms of subsection (1) for—
- (a) different kinds of municipalities which may, for the purposes of this section, be defined in the notice either in relation to categories of municipalities within the meaning of the Municipal Structures Act or in any other way; or 45
 - (b) different categories of properties, subject to section 19.
- (3) The Minister may, on written application by a municipality, and on good cause, exempt a municipality from a limit set in terms of subsection (1).
- (4) This section must be read with section 43 of the Municipal Finance Management Act. 50

Compulsory phasing-in of certain rates

- 21.** (1) (a) A rate levied on newly rateable property must be phased in over a period of three financial years, subject to subsection (5).

(b) A rate levied on property referred to in section 17(1)(g) must, after the exclusion period referred to in that section has lapsed, be phased in over a period of three financial years, subject to subsection (5) of this section.

(c) A rate levied on newly rateable property owned and used by organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for those activities must be phased in over a period of four financial years, subject to subsection (5). 5

(2) The phasing-in discount on a property referred to in subsection (1) (a) or (b) must—

(a) in the first year, be at least 75 per cent of the rate for that year otherwise applicable to the property; 10

(b) in the second year, be at least 50 per cent of the rate for that year otherwise applicable to the property; and

(c) in the third year, be at least 25 per cent of the rate for that year otherwise applicable to the property. 15

(3) No rate may be levied during the first year on property referred to in subsection (1) (c). Thereafter, the phasing-in discount on such property—

(a) in the second year, must be at least 75 per cent of the rate for that year otherwise applicable to the property;

(b) in the third year, must be at least 50 per cent of the rate for that year otherwise applicable to the property; and 20

(c) in the fourth year, must be at least 25 per cent of the rate for that year otherwise applicable to the property.

(4) A rate levied on property referred to in subsection (1) may not be higher than the rate levied on similar property or category of properties in the municipality. 25

(5) The MEC for local government may, on written request by a municipality, extend for that municipality the phasing-in period referred to in subsection (1)(a), (b) or (c) to a period which together with the initial period does not exceed six financial years.

(6) When extending a phasing-in period, the MEC for local government must determine the minimum phasing-in discount on the rate payable during each financial year in the extended period. 30

Part 4: Additional rates

Special rating areas

22. (1) A municipality may by resolution of its council—

(a) determine an area within that municipality as a special rating area; 35

(b) levy an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area; and

(c) differentiate between categories of properties when levying an additional rate referred to in paragraph (b).

(2) Before determining a special rating area, a municipality must— 40

(a) consult the local community, including on the following matters:

(i) the proposed boundaries of the area; and

(ii) the proposed improvement or upgrading of the area; and

(b) obtain the consent of the majority of the members of the local community in the proposed special rating area who will be liable for paying the additional rate. 45

(3) When a municipality determines a special rating area, the municipality—

(a) must determine the boundaries of the area;

(b) must indicate how the area is to be improved or upgraded by funds derived from the additional rate; 50

(c) must establish separate accounting and other record-keeping systems regarding—

(i) the revenue generated by the additional rate; and

(ii) the improvement and upgrading of the area; and

(d) may establish a committee composed of persons representing the community in the area to act as a consultative and advisory forum for the municipality on the improvement and upgrading of the area, provided representivity, including gender representivity, is taken into account when such a committee is established. Such a committee must be a subcommittee of the ward committee 55

or committees in the area, if the municipality has a ward committee or committees in the area.

(4) This section may not be used to reinforce existing inequities in the development of the municipality, and any determination of a special rating area must be consistent with the objectives of the municipality's integrated development plan. 5

(5) This section must be read with section 85 of the Municipal Systems Act if this section is applied to provide funding for an internal municipal service district established in terms of that section of the Municipal Systems Act.

Part 5: Municipal register of properties

Register of properties 10

23. (1) A municipality must draw up and maintain a register in respect of properties situated within that municipality, consisting of a Part A and a Part B.

(2) Part A of the register consists of the current valuation roll of the municipality, including any supplementary valuation rolls of the municipality prepared in terms of section 78. 15

(3) Part B of the register must specify which properties on the valuation roll or any supplementary valuation rolls are subject to—

- (a) an exemption from the rate in terms of section 15;
- (b) a rebate on or a reduction in the rate in terms of section 15;
- (c) a phasing-in of the rate in terms of section 21; or 20
- (d) an exclusion referred to in section 17(1)(a), (e), (g), (h) and (i).

(4) The register must be open for inspection by the public during office hours. If the municipality has an official website or another website available to it, the register must be displayed on that website.

(5) A municipality must at regular intervals, but at least annually, update Part B of the register. Part A of the register must be updated in accordance with the provisions of this Act relating to the updating and supplementing of valuation rolls. 25

CHAPTER 3

LIABILITY FOR RATES

Property rates payable by owners 30

24. (1) A rate levied by a municipality on a property must be paid by the owner of the property, subject to Chapter 9 of the Municipal Systems Act.

(2) (a) Joint owners of a property are, subject to paragraph (b), jointly and severally liable for the amount due for rates on that property.

(b) A municipality must, in respect of agricultural property that is owned by more than one owner in undivided shares where the holding of such undivided shares was allowed before the commencement of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970), consider whether in the particular circumstances it would be more appropriate for the municipality to— 35

- (i) hold any one of the joint owners in terms of paragraph (a) liable for all rates levied in respect of the agricultural property concerned; or 40
- (ii) hold any joint owner only liable for that portion of the rates levied on the property that represents that joint owner's undivided share in the agricultural property.

Payment of rates on property in sectional title schemes 45

25. (1) A rate levied by a municipality on a sectional title unit is payable by the owner of the unit.

(2) A municipality may not recover the rate on a sectional title unit, or any part of such rate, from the body corporate controlling a sectional title scheme, except when the body corporate is the owner of any specific sectional title unit. 50

(3) A body corporate controlling a sectional title scheme may not apportion and collect rates from the owners of the sectional title units in the scheme.

(4) This section must be read subject to section 92.

Method and time of payment

- 26.** (1) A municipality may recover a rate—
- (a) on a monthly basis or less often as may be prescribed in terms of the Municipal Finance Management Act; or
 - (b) annually, as may be agreed to with the owner of the property. 5
- (2) (a) If a rate is payable in a single amount annually it must be paid on or before a date determined by the municipality.
- (b) If a rate is payable in instalments it must be paid on or before a date in each period determined by the municipality.
- (3) Payment of a rate may be deferred but only in special circumstances. 10

Accounts to be furnished

- 27.** (1) A municipality must furnish each person liable for the payment of a rate with a written account specifying—
- (a) the amount due for rates payable;
 - (b) the date on or before which the amount is payable; 15
 - (c) how the amount was calculated;
 - (d) the market value of the property;
 - (e) if the property is subject to any compulsory phasing-in discount in terms of section 21, the amount of the discount; and
 - (f) if the property is subject to any additional rate in terms of section 22, the amount due for additional rates. 20
- (2) A person is liable for payment of a rate whether or not that person has received a written account in terms of subsection (1). If a person has not received a written account, that person must make the necessary inquiries from the municipality.
- (3) The furnishing of accounts for rates in terms of this section is subject to section 102 of the Municipal Systems Act. 25

Recovery of rates in arrears from tenants and occupiers

- 28.** (1) If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined in terms of section 26(2), the municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after the municipality has served a written notice on the tenant or occupier. 30
- (2) The amount a municipality may recover from the tenant or occupier of a property in terms of subsection (1) is limited to the amount of the rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property. 35
- (3) Any amount a municipality recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.
- (4) The tenant or occupier of a property must, on request by a municipality, furnish the municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the municipality. 40

Recovery of rates from agents

- 29.** (1) A municipality may, despite the Estate Agents Affairs Act, 1976 (Act No. 112 of 1976), recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality. 45
- (2) A municipality may recover the amount due for rates from the agent of the owner only after it has served a written notice on the agent.
- (3) The amount a municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent. 50
- (4) The agent must, on request by a municipality, furnish the municipality with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the municipality. 55

CHAPTER 4

GENERAL VALUATION OF RATEABLE PROPERTY

Part 1: General

General valuation and preparation of valuation rolls

- 30.** (1) A municipality intending to levy a rate on property must in accordance with this Act cause— 5
- (a) a general valuation to be made of all properties in the municipality determined in terms of subsection (2); and
 - (b) a valuation roll to be prepared of all properties determined in terms of subsection (3). 10
- (2) All rateable properties in the municipality must be valued during a general valuation, including all properties fully or partially excluded from rates in terms of section 17(1)(a), (e), (g), (h) and (i): Provided that—
- (a) properties referred to in section 7 (2) (a) must be valued only to the extent that the municipality intends to levy a rate on those properties; and 15
 - (b) the Minister may fully or partially exempt a municipality from the obligation to value properties excluded from rates in terms of section 17 (1) (e), (g) and (i) if the municipality can demonstrate that the valuation of those properties is too onerous for it, given its financial and administrative capacity.
- (3) All properties valued in terms of subsection (2) must be included in the valuation roll: Provided that properties referred to in subsection (2)(b) and in section 7 (2) (a) (i) and (ii) must be included in the valuation roll whether or not they were valued. 20

Date of valuation 31.

- (1) For the purposes of a general valuation, a municipality must determine a date that may not be more than 12 months before the start of the financial year in which the valuation roll is to be first implemented. (2) The general valuation must reflect the market value of properties determined in accordance with— 25
- (a) market conditions which applied as at the date of valuation; and
 - (b) any other applicable provisions of this Act.

Commencement and period of validity of valuation rolls 30

- 32.** (1) A valuation roll—
- (a) takes effect from the start of the financial year following completion of the public inspection period required by section 49; and
 - (b) remains valid for that financial year or for one or more subsequent financial years as the municipality may decide, but in total not for more than four financial years. 35
- (2) The MEC for local government in a province may extend the period for which a valuation roll remains valid to five financial years, but only —
- (a) if the provincial executive has intervened in the municipality in terms of section 139 of the Constitution; or 40
 - (b) on request by the municipality, in other exceptional circumstances which warrant such extension.
- (3) The valuation roll of a municipality remains valid for one year after the date on which the roll has lapsed if the provincial executive intervenes in a municipality in terms of section 139 of the Constitution either before or after that date, provided that the intervention was caused by the municipality's failure— 45
- (a) to determine a date of valuation for its general valuation in terms of section 31; or
 - (b) to designate a person as its municipal valuer in terms of section 33.

Part 2: Municipal valuers

Designation of municipal valuers

33. (1) A municipality must, before the date of valuation, designate a person as municipal valuer. A municipality may designate either one of its officials or a person in private practice as its municipal valuer. 5

(2) If a municipality decides to secure the services of a person in private practice as its municipal valuer, it must—

- (a) follow an open, competitive and transparent process in accordance with Chapter 11 of the Municipal Finance Management Act; and
- (b) designate the successful bidder as its municipal valuer by way of a written contract setting out the terms and conditions of the designation. 10

(3) A municipality must issue to the person designated as its municipal valuer an identity card in the prescribed format containing a photograph of that person.

(4) A municipality may withdraw the designation of a person as its municipal valuer but only on the grounds of — 15

- (a) misconduct, incapacity or incompetence;
- (b) non-compliance with a provision of this Act;
- (c) under-performance; or
- (d) breach of contract, in the case of a person referred to in subsection (2).

Functions of municipal valuers 20

34. The valuer of a municipality must in accordance with this Act—

- (a) value all properties in the municipality determined in terms of section 30(2);
- (b) prepare a valuation roll of all properties in the municipality determined in terms of section 30 (3);
- (c) sign and certify the valuation roll; 25
- (d) submit the valuation roll to the municipal manager within a prescribed period;
- (e) consider and decide on objections to the valuation roll;
- (f) attend every meeting of an appeal board when that appeal board—
 - (i) hears an appeal against a decision of that valuer; or
 - (ii) reviews a decision of that valuer; 30
- (g) prepare a supplementary valuation roll whenever this becomes necessary;
- (h) assist the municipality in the collection of postal addresses of owners where such addresses are reasonably determinable by the valuer when valuing properties; and
- (i) generally, provide the municipality with appropriate administrative support 35 incidental to the valuation roll.

Assistant municipal valuers

35. (1) The municipal manager may designate officials of the municipality or persons in private practice as assistant municipal valuers to assist the valuer of the municipality with the performance of any of the functions set out in section 34. 40

(2) If the municipal valuer is not an official of the municipality, the municipal valuer may, with the concurrence of the municipal manager, designate persons in private practice as assistant municipal valuers to assist the municipal valuer with the performance of any of the functions set out in section 34.

(3) When designating persons in private practice as assistant municipal valuers in terms of subsection (2), a municipal valuer may recover from the municipality the cost of securing the services of those persons but only in terms of the contract concluded between the municipal valuer and the municipality in terms of section 33(2)(b). 45

(4) A municipality must issue to the person designated as an assistant municipal valuer an identity card in the prescribed format containing a photograph of that person. 50

(5) A municipality may withdraw the designation of a person referred to in subsection (1) as an assistant municipal valuer, and a municipal valuer may, and must if requested by the municipality, withdraw the designation of a person referred to in subsection (2) as an assistant municipal valuer. The designation of a person may be withdrawn only on the grounds of — 55

- (a) misconduct, incapacity or incompetence;
- (b) non-compliance with a provision of this Act;

- (c) under-performance; or
- (d) breach of any of the terms or conditions of the designation, in the case of a person designated as an assistant municipal valuer in terms of subsection (2).

Data-collectors

36. (1) The municipal manager may designate officials of the municipality or persons who are not officials of the municipality as data-collectors to assist the valuer of the municipality with the collection of data and other related work. 5

(2) If the municipal valuer is not an official of the municipality, the municipal valuer may, with the concurrence of the municipal manager, designate persons, other than officials of the municipality, as data-collectors to assist the municipal valuer with the collection of data and other related work. 10

(3) When designating persons as data-collectors in terms of subsection (2), a municipal valuer may recover from the municipality the cost of securing the services of those persons, but only in terms of the contract concluded between the municipal valuer and the municipality in terms of section 33(2)(b). 15

(4) A municipality must issue to the person designated as a data-collector an identity card in the prescribed format containing a photograph of that person.

(5) A municipality may withdraw the designation of a person referred to in subsection (1) as a data-collector, and a municipal valuer may, and must if requested by the municipality, withdraw the designation of a person referred to in subsection (2) as a data-collector. 20

Delegations by municipal valuers

37. (1) The valuer of a municipality—

- (a) may delegate —
 - (i) to an assistant municipal valuer any powers or duties reasonably necessary to assist the municipal valuer to exercise a power or to comply with a duty assigned to a municipal valuer in terms of this Act; or
 - (ii) to a data-collector any powers or duties reasonably necessary to assist the municipal valuer in the collection and processing of data; and
- (b) must regularly review delegations issued in terms of paragraph (a) and, if necessary, amend or withdraw any of those delegations. 25 30

(2) A delegation in terms of subsection (1)—

- (a) must be in writing;
- (b) is subject to such limitations and conditions as the municipal valuer may impose in a specific case; and
- (c) does not divest the municipal valuer of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty. 35

(3) The municipal valuer may confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision. 40

Municipal partnerships

38. (1) A municipality may enter into an agreement with another municipality or municipalities to designate a single municipal valuer and to share the costs of preparing valuation rolls. 45

(2) Section 33(2) does not apply if the municipalities concerned agree to appoint an official of one of them as their municipal valuer.

Qualifications of municipal valuers

39. (1) A municipal valuer—

- (a) must be a person registered as a professional valuer or professional associated valuer in terms of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000); and
- (b) may not be a councillor—
 - (i) of the designating municipality, if that municipality is a metropolitan or a district municipality; or

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- (ii) of either the designating municipality or the district municipality in which that municipality falls, if the designating municipality is a local municipality.
- (2) An assistant municipal valuer—
 - (a) must be a person registered as a professional valuer, a professional associated valuer or a candidate valuer in terms of the Property Valuers Profession Act, 2000; and 5
 - (b) may not be a councillor—
 - (i) of the designating municipality, if that municipality is a metropolitan or district municipality; or 10
 - (ii) of either the designating municipality or the district municipality in which that municipality falls, if the designating municipality is a local municipality.

Prescribed declaration

- 40.** Before assuming office, the valuer of a municipality or an assistant municipal valuer must— 15
- (a) make the prescribed declaration before a commissioner of oaths regarding the performance of office; and
 - (b) lodge a certified copy of such declaration with the municipal manager.

Inspection of property 20

- 41.** (1) Subject to any legislation that restricts or prohibits entry to any specific property, the valuer of a municipality, assistant municipal valuer, data-collector or other person authorised by the municipal valuer in writing, may—
- (a) between 07:30 and 19:00 on any day except a Sunday or public holiday, enter any property in the municipality that must be valued in terms of this Act; and 25
 - (b) inspect that property for the purpose of the valuation.
- (2) If a person authorised by a municipal valuer in terms of subsection (1) is not in possession of an identity card in the prescribed format containing a photograph of that person, the municipality must issue to that person such a card.
- (3) When entering any property in terms of subsection (1), a municipal valuer, assistant municipal valuer, data-collector or other person authorised in terms of that subsection— 30
- (a) must, on demand by a person on that property, produce his or her identity card; and
 - (b) may be accompanied by an interpreter or any other person whose assistance may reasonably be required in the circumstances. 35

Access to information

- 42.** (1) A municipal valuer or assistant municipal valuer may—
- (a) require the owner, tenant or occupier of a property which the valuer must value in terms of this Act, or the agent of the owner, to give the valuer access to any document or information in possession of the owner, tenant, occupier or agent which the valuer reasonably requires for purpose of valuing the property; 40
 - (b) make extracts from any such document or information; and
 - (c) in writing require the owner, tenant or occupier of the property, or the agent of the owner, to provide the valuer, either in writing or orally, with particulars regarding the property which the valuer reasonably requires for purpose of valuing the property. 45
- (2) Where any document, information or particulars were not provided when required in terms of subsection (1) and the owner concerned relies on such document, information or particulars in an appeal to an appeal board, the appeal board may make an order as to costs in terms of section 70 if the appeal board is of the view that the failure to so have provided any such document, information or particulars has placed an unnecessary burden on the functions of the municipal valuer or the appeal board. 50

Conduct of valuers

- 43.** (1) A municipal valuer or assistant municipal valuer—
- (a) must disclose to a municipality any personal or any private business interest that the valuer, or any spouse, parent, child, partner or business associate of the valuer, may have in any property in the municipality; 5
 - (b) may not use the position as a municipal valuer or assistant municipal valuer for private gain or to improperly benefit another person; and
 - (c) must comply with the Code of Conduct set out in Schedule 2 to the Municipal Systems Act.
- (2) A municipal valuer or assistant municipal valuer who is not an official of a municipality must comply with the Code of Conduct as if that person is such an official. 10
- (3) A municipal valuer or assistant municipal valuer who contravenes or fails to comply with subsection (1) is guilty of misconduct and subject to dismissal as municipal valuer or assistant municipal valuer. 15
- (4) A decision in terms of subsection (3) to dismiss a municipal valuer or assistant municipal valuer who is a municipal official must be based on a finding by an enquiry conducted in accordance with the terms and conditions of employment applicable to that person.
- (5) A municipal valuer or assistant municipal valuer may not perform the valuation of a property in which that valuer, or any spouse, parent, child, partner or business associate of the valuer, has a personal or private business interest, and the municipal manager must designate a special valuer to perform that valuation. A special valuer must be qualified for designation as a municipal valuer or assistant municipal valuer in terms of section 39. 20 25

Protection of information

- 44.** (1) A municipal valuer, assistant municipal valuer, data-collector or other person may not disclose to any person any information obtained whilst exercising a power referred to in section 41 or 42, except—
- (a) within the scope of that person's powers and duties in terms of this Act; 30
 - (b) for the purpose of carrying out the provisions of this Act;
 - (c) for the purpose of legal proceedings; or
 - (d) in terms of a court order.
- (2) Subsection (1) also applies to a person accompanying a municipal valuer, assistant municipal valuer, data-collector or other person authorised in terms of section 41 (1) when entering any property in terms of that section. 35

CHAPTER 5

VALUATION CRITERIA

Valuation

- 45.** (1) Property must be valued in accordance with generally recognised valuation practices, methods and standards, and the provisions of this Act. 40
- (2) For the purposes of subsection (1)—
- (a) physical inspection of the property to be valued is optional; and
 - (b) comparative, analytical and other systems or techniques may be used, including aerial photography and computer-assisted mass appraisal systems or techniques, taking into account changes in technology and valuation systems and techniques. 45
- (3) (a) If the available market-related data of any category of rateable property is not sufficient for the proper application of subsections (1) and (2), such property may be valued in accordance with any mass valuation system or technique approved by the municipality concerned, after having considered any recommendations of its municipal valuer and as may be appropriate in the circumstances. 50
- (b) A mass valuation system or technique that may be approved by a municipality in terms of paragraph (a) includes a valuation system or technique based on predetermined bands of property values and the designation of properties to one of those bands on the basis of minimal market-related data. 55

General basis of valuation

- 46.** (1) Subject to any other applicable provisions of this Act, the market value of a property is the amount the property would have realised if sold on the date of valuation in the open market by a willing seller to a willing buyer.
- (2) In determining the market value of a property, the following must be considered for purposes of valuing the property: 5
- (a) The value of any licence, permission or other privilege granted in terms of legislation in relation to the property;
 - (b) the value of any immovable improvement on the property that was erected or is being used for a purpose which is inconsistent with or in contravention of the permitted use of the property, as if the improvement was erected or is being used for a lawful purpose; and 10
 - (c) the value of the use of the property for a purpose which is inconsistent with or in contravention of the permitted use of the property, as if the property is being used for a lawful purpose. 15
- (3) In determining the market value of a property the following must be disregarded for purposes of valuing the property:
- (a) The value of any building or other immovable structure under the surface of the property which is the subject matter of any mining authorisation or mining right defined in the Minerals Act, 1991 (Act No. 50 of 1991); 20
 - (b) the value of any equipment or machinery which, in relation to the property concerned, is immovable property, excluding—
 - (i) a lift;
 - (ii) an escalator;
 - (iii) an air-conditioning plant; 25
 - (iv) fire extinguishing apparatus;
 - (v) a water pump installation for a swimming pool or for irrigation or domestic purposes; and
 - (vi) any other equipment or machinery that may be prescribed; and
 - (c) any unregistered lease in respect of the property. 30
- (4) In determining the market value of a property used for agricultural purposes, the value of any annual crops or growing timber on the property that have not yet been harvested as at the date of valuation must be disregarded for purposes of valuing the property.
- (5) Where the available market related data is not sufficient to determine the market value of public service infrastructure, such public service infrastructure may be valued in accordance with any other method of valuation as may be prescribed. 35

Valuation of property in sectional title schemes

- 47.** When valuing a property which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme in accordance with section 46. 40

CHAPTER 6

VALUATION ROLLS

Contents of valuation rolls

- 48.** (1) A valuation roll must list all properties in the municipality determined in terms of section 30 (3). 45
- (2) The valuation roll must reflect the following particulars in respect of each property as at the date of valuation to the extent that such information is reasonably determinable:
- (a) The registered or other description of the property;
 - (b) the category determined in terms of section 8 in which the property falls; 50
 - (c) the physical address of the property;
 - (d) the extent of the property;
 - (e) the market value of the property, if the property was valued;
 - (f) the name of the owner; and
 - (g) any other prescribed particulars. 55

Public notice of valuation rolls

- 49.** (1) The valuer of a municipality must submit the certified valuation roll to the municipal manager, and the municipal manager must within 21 days of receipt of the roll—
- (a) publish in the prescribed form in the provincial *Gazette*, and once a week for two consecutive weeks advertise in the media, a notice—
 - (i) stating that the roll is open for public inspection for a period stated in the notice, which may not be less than 30 days from the date of publication of the last notice; and
 - (ii) inviting every person who wishes to lodge an objection in respect of any matter in, or omitted from, the roll to do so in the prescribed manner within the stated period;
 - (b) disseminate the substance of the notice referred to in paragraph (a) to the local community in terms of Chapter 4 of the Municipal Systems Act; and
 - (c) serve, by ordinary mail or, if appropriate, in accordance with section 115 of the Municipal Systems Act, on every owner of property listed in the valuation roll a copy of the notice referred to in paragraph (a) together with an extract of the valuation roll pertaining to that owner's property.
- (2) If the municipality has an official website or another website available to it, the notice and the valuation roll must also be published on that website.

Inspection of, and objections to, valuation rolls

- 50.** (1) Any person may, within the period stated in the notice referred to in section 49 (1) (a)—
- (a) inspect the roll during office hours;
 - (b) on payment of a reasonable fee, request the municipality during office hours to make extracts from the roll; and
 - (c) lodge an objection with the municipal manager against any matter reflected in, or omitted from, the roll. (2) An objection in terms of subsection (1)(c) must be in relation to a specific individual property and not against the valuation roll as such.
- (3) A municipal manager must assist an objector to lodge an objection if that objector is unable to read or write.
- (4) A municipal council may also lodge an objection with the municipal manager concerned against any matter reflected in, or omitted from, the roll. The municipal manager must inform the council of any matter reflected in, or omitted from, the roll that affects the interests of the municipality.
- (5) A municipal manager must, within 14 days after the end of the period stated in the notice referred to in section 49 (1) (a), submit all objections to the municipal valuer, who must promptly decide and dispose of the objections in terms of section 51.
- (6) The lodging of an objection does not defer liability for payment of rates beyond the date determined for payment.

Processing of objections

- 51.** A municipal valuer must promptly—
- (a) consider objections in accordance with a procedure that may be prescribed;
 - (b) decide objections on facts, including the submissions of an objector, and, if the objector is not the owner, of the owner; and
 - (c) adjust or add to the valuation roll in accordance with any decisions taken.

Compulsory review of decisions of municipal valuer

- 52.** (1) If a municipal valuer adjusts the valuation of a property in terms of section 51 (c) by more than 10 per cent upwards or downwards—
- (a) the municipal valuer must give written reasons to the municipal manager; and
 - (b) the municipal manager must promptly submit to the relevant valuation appeal board the municipal valuer's decision, the reasons for the decision and all relevant documentation, for review.

- (2) An appeal board must —
- (a) review any such decision; and
 - (b) either confirm, amend or revoke the decision.
- (3) If the appeal board amends or revokes the decision, the chairperson of the appeal board and the valuer of the municipality must ensure that the valuation roll is adjusted in accordance with the decisions taken by the appeal board. 5

Notification of outcome of objections and furnishing of reasons

- 53.** (1) A municipal valuer must, in writing, notify every person who has lodged an objection, and also the owner of the property concerned if the objector is not the owner, of— 10
- (a) the valuer's decision in terms of section 51 regarding that objection;
 - (b) any adjustments made to the valuation roll in respect of the property concerned; and
 - (c) whether section 52 applies to the decision. (2) Within 30 days after such notification, such objector or owner may, in writing, apply to the municipal manager for the reasons for the decision. A prescribed fee must accompany the application. 15
- (3) The municipal valuer must, within 30 days after receipt of such application by the municipal manager, provide the reasons for the decision to the applicant, in writing.

Right of appeal 20

- 54.** (1) An appeal to an appeal board against a decision of a municipal valuer in terms of section 51 may be lodged in the prescribed manner with the municipal manager concerned by—
- (a) a person who has lodged an objection in terms of section 50 (1) (c) and who is not satisfied with the decision of the municipal valuer; 25
 - (b) an owner of a property who is affected by such a decision, if the objector was not the owner; or
 - (c) the council of the municipality concerned, if the municipality's interests are affected.
- (2) An appeal by— 30
- (a) an objector must be lodged within 30 days after the date on which the written notice referred to in section 53(1) was sent to the objector or, if the objector has requested reasons in terms of section 53(2), within 21 days after the day on which the reasons were sent to the objector;
 - (b) an owner of such property must be lodged within 30 days after the date on which the written notice referred to in section 53(1) was sent to the owner or, if the owner has requested reasons in terms of section 53(2), within 21 days after the day on which the reasons were sent to the owner; or 35
 - (c) a municipal council must be lodged within 30 days after the date on which the decision was taken. 40
- (3) (a) A municipal manager must forward any appeal lodged in terms of subsection (1) to the chairperson of the appeal board in question within 14 days after the end of the applicable period referred to in subsection (2).
- (b) The chairperson of an appeal board must, for purposes of considering any appeals, convene a meeting of the appeal board within 60 days after an appeal has been forwarded to the chairperson in terms of paragraph (a). 45
 - (c) When an appeal is forwarded to the chairperson of an appeal board in terms of paragraph (a), a copy of the appeal must also be submitted to the municipal valuer concerned.
- (4) An appeal lodged in terms of this section does not defer a person's liability for payment of rates beyond the date determined for payment. 50

Adjustments or additions to valuation rolls

- 55.** (1) Any adjustments or additions made to a valuation roll in terms of section 51(c), 52 (3) or 69 take effect on the effective date of the valuation roll.
- (2) If an adjustment in the valuation of a property affects the amount due for rates payable on that property, the municipal manager must— 55

- (a) calculate—
 - (i) the amount actually paid on the property since the effective date; and
 - (ii) the amount payable in terms of the adjustment on the property since the effective date; and
- (b) recover from, or repay to, the person liable for the payment of the rate the difference determined in terms of paragraph (a) plus interest at a prescribed rate. (3) Where an addition has been made to a valuation roll as envisaged in subsection (1), the municipal manager must recover from the person liable for the payment of the rate the amount due for rates payable plus interest at a prescribed rate.

CHAPTER 7

VALUATION APPEAL BOARDS

Establishment of valuation appeal boards

56. (1) The MEC for local government must, by notice in the provincial *Gazette*, establish as many valuation appeal boards in the province as may be necessary, but not fewer than one in each district municipality and each metropolitan municipality.

(2) If more than one appeal board is established within the area of a district municipality, such board must be established for one or more specific local municipalities or district management areas.

Functions

57. The functions of an appeal board are—

- (a) to hear and decide appeals against the decisions of a municipal valuer concerning objections to matters reflected in, or omitted from, the valuation roll of a municipality in the area for which it was established in terms of section 56; and
- (b) to review decisions of a municipal valuer submitted to it in terms of section 52.

Composition

58. (1) An appeal board consists of—

- (a) a chairperson, who must be a person with legal qualifications and sufficient experience in the administration of justice; and
- (b) not fewer than two and not more than four other members with sufficient knowledge of or experience in the valuation of property, of which at least one must be a professional valuer registered in terms of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000).

(2) The chairperson and other members of an appeal board must be appointed by the MEC for local government in the province, taking into account the need for representivity, including gender representivity.

(3) The MEC for local government must follow a transparent process complying with any prescribed norms and standards when making appointments to an appeal board.

Disqualifications

59. (1) The following persons are disqualified from being a member of an appeal board:

- (a) An unrehabilitated insolvent;
- (b) a person under curatorship;
- (c) a person declared to be of unsound mind by a court of the Republic;
- (d) a person who, after 24 April 1994, was convicted of an offence and sentenced to imprisonment without an option of a fine for a period of not less than 12 months;
- (e) a person who has been disqualified in terms of applicable legislation from practicing as a valuer or lawyer; or
- (f) a person who is in arrears to a municipality for rates or service charges for a period longer than three months.

(2) A disqualification in terms of subsection (1)(d) ends five years after the imprisonment has been completed.

(3) A member of an appeal board who is a councillor, an employee or valuer of a municipality must withdraw from the proceedings of the board if a matter concerning that municipality's valuation roll is considered by the board.

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Term of office

60. The term of office of members of an appeal board is four years, but members are eligible to be re-appointed.

Conditions of appointment

61. (1) The Minister must, after consultation with the MECs for local government, determine the conditions of appointment of members of an appeal board.

(2) Conditions of appointment may differ in respect of the chairperson and other members of an appeal board.

(3) The municipality or municipalities for which an appeal board was established in terms of section 56 must remunerate the members of the appeal board in accordance with their conditions of appointment and the directions of the MEC for local government.

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Conduct of members

62. (1) A member of an appeal board—

(a) must perform the duties of office in good faith and without fear, favour or prejudice;

(b) must disclose any personal or any private business interest that that member or any spouse, parent, child, partner or business associate of that member may have in any matter before the appeal board and must withdraw from the proceedings of the appeal board, unless the board decides that the member's interest in the matter is trivial or not relevant, and announces its decision in public at the first available sitting of the board;

(c) may not use the position or privileges of a member for private gain or to improperly benefit another person; or

(d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of the appeal board. (2) A member of an appeal board who contravenes or fails to comply with subsection (1) is guilty of misconduct.

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Termination of membership

63. (1) A person ceases to be a member of an appeal board when that person—

(a) resigns;

(b) is no longer eligible to be a member; or

(c) is removed from office in terms of subsection (2).

(2) The MEC for local government may remove from office a member of an appeal board but only on the grounds of misconduct, incapacity or incompetence.

(3) A decision to remove a member of an appeal board on the grounds of misconduct or incompetence must be based on a finding to that effect by an investigating tribunal appointed by the MEC.

(4) The MEC may suspend a member of an appeal board who is under investigation in terms of subsection (3).

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Alternates

64. (1) The MEC for local government may appoint alternate members of an appeal board.

(2) The person appointed as the alternate for the chairperson of an appeal board must be a person with legal qualifications and sufficient experience in the administration of justice.

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- (3) An alternate acts as a member when—
- (a) a member is absent, has recused himself or herself or is suspended; or
 - (b) the filling of a vacancy on the board is pending.

Meetings

65. (1) The chairperson of an appeal board decides when and where the board meets, but must promptly convene a meeting if a majority of the members of the board request him or her, in writing, to convene a board meeting at such time and such place set out in the request. 5

(2) When hearing an appeal, an appeal board must sit in a municipality whose valuation roll is the subject of the appeal or review. 10

(3) If the chairperson is absent or not available, or if there is a vacancy in the office of chairperson, the other members of the appeal board must elect a member with experience in the administration of justice or the alternate for the chairperson to preside at the meeting or to act as chairperson.

(4) Meetings of an appeal board are open to the public, but a board may adjourn in closed session when deliberating an issue before the board. 15

Administrative assistance

66. (1) An appeal board may request a municipality whose valuation roll is under consideration by the board to provide it with the necessary office accommodation and other administrative assistance, including staff for the board. 20

(2) A municipality whose valuation roll is under consideration —

- (a) must comply with all reasonable requests in terms of subsection (1); and
- (b) is liable for the costs of an appeal board, provided that the members of an appeal board must be remunerated in accordance with section 61 (3).

Procedures 25

67. An appeal board may determine its internal procedures to dispose of appeals and reviews subject to any procedures that may be prescribed.

Quorums and decisions

68. (1) A majority of the members of an appeal board serving at any relevant time constitutes a quorum for a meeting of the board. 30

(2) A matter before an appeal board is decided by a supporting vote of a majority of the members of the board.

(3) If on any matter before an appeal board there is an equality of votes, the member presiding at the meeting must exercise a casting vote in addition to that person's vote as a member. 35

Decisions affecting valuation rolls

69. (1) The chairperson of an appeal board and the valuer of the municipality must ensure that the valuation roll is adjusted or added to in accordance with the decisions taken by the appeal board.

(2) If an adjustment in the valuation of a property affects the amount due for rates payable on that property, section 55(2) must be applied. 40

(3) Where an addition has been made to the valuation roll as envisaged in subsection (1), section 55 (3) must be applied.

Orders as to costs

70. (1) When an appeal board gives its decision, it may issue an order with regard to costs it regards as just and equitable. 45

(2) When making an order in terms of subsection (1), an appeal board may order any person whose appeal or opposition to an appeal is in bad faith or frivolous to compensate the municipality concerned in full or in part for costs incurred by the municipality in connection with the appeal. 50

Committees of appeal boards

- 71.** (1) The MEC for local government may, on request by an appeal board, authorise the board to establish one or more committees to assist it in the performance of its duties.
- (2) When appointing members to a committee, an appeal board is not restricted to members of the appeal board. 5
- (3) An appeal board—
- (a) must determine the duties of a committee;
 - (b) must appoint a chairperson and other members of a committee;
 - (c) may authorise a committee to co-opt advisory members within limits determined by the board; 10
 - (d) may remove a member of a committee from office at any time; and
 - (e) may determine a committee's procedure.
- (4) An appeal board which has established a committee may dissolve that committee at any time.
- (5) Sections 61 and 66 (2) (b), read with the necessary changes as the context may require, apply to the conditions of appointment of committee members who are not members of an appeal board. 15

Inspection of property

- 72.** (1) Subject to any legislation that restricts or prohibits entry to any specific property, a member of, or any other person authorised by, an appeal board may — 20
- (a) between 07:30 and 19:00 on any day except a Sunday or public holiday, enter any property that is the subject of an appeal or review; and
 - (b) inspect that property for the purpose of the appeal or review.
- (2) When entering any property in terms of subsection (1), a member of, or any other person authorised by, an appeal board — 25
- (a) must, on demand by a person on that property, produce proof of identity; and
 - (b) may be accompanied by an interpreter or any other person whose assistance may reasonably be required in the circumstances.
- (3) The MEC for local government who established an appeal board must issue to a member of, or any person authorised by, that appeal board an identity card in the prescribed format containing a photograph of that person. 30

Access to information

- 73.** A member of, or any other person authorised by, an appeal board may—
- (a) require the owner, tenant or occupier of a property which is the subject of an appeal or review, or the agent of the owner, to give the member or authorised person access to any document or information in possession of the owner, tenant, occupier or agent which the member or authorised person reasonably requires for purpose of the appeal or review; 35
 - (b) make extracts from any such document or information; and
 - (c) in writing require the owner, tenant or occupier of the property, or the agent of the owner, to provide the member or authorised person either in writing or orally with particulars regarding the property which the member or authorised person reasonably requires for purpose of the appeal or review. 40

Protection of information

- 74.** (1) A member of, or any other person authorised by, an appeal board to inspect property may not disclose to any person any information obtained whilst exercising a power referred to in section 72 or 73, except— 45
- (a) within the scope of that person's powers and duties in terms of this Act;
 - (b) for the purpose of carrying out the provisions of this Act;
 - (c) for the purpose of legal proceedings; or 50
 - (d) in terms of a court order.
- (2) Subsection (1) also applies to a person accompanying a member of an appeal board or a person authorised by an appeal board in terms of section 72 (1), when entering any property in terms of that section.

Powers of appeal boards

- 75.** (1) An appeal board may—
- (a) by notice, summon a person to appear before it—
 - (i) to give evidence; or
 - (ii) to produce a document available to that person and specified in the summons; 5
 - (b) call a person present at a meeting of an appeal board, whether summoned or not—
 - (i) to give evidence; or
 - (ii) to produce a document in that person's custody; 10
 - (c) administer an oath or solemn affirmation to that person;
 - (d) question that person, or have that person questioned; or
 - (e) retain a document produced in terms of paragraph (a)(ii) or (b)(ii) for a reasonable period.
- (2) A person appearing before an appeal board, whether summoned or not, may at his or her own expense be assisted by a legal representative. 15
- (3) (a) A person summoned to appear before an appeal board is entitled to witness fees paid to state witnesses in criminal proceedings in a court.
- (b) Fees referred to in paragraph (a) must be paid by the relevant municipality. (4) The law regarding privilege applicable to a witness summoned to give evidence in a criminal case in a court applies to the questioning of a person in terms of subsection (1). 20

Proceedings by, or against, appeal boards

- 76.** (1) Legal proceedings by, or against, an appeal board may be instituted in the name of the board. 25
- (2) Any costs awarded in any legal proceedings against an appeal board must be borne by the municipality concerned.

CHAPTER 8**UPDATING OF VALUATION ROLLS****General** 30

- 77.** A municipality must regularly, but at least once a year, update its valuation roll by causing—
- (a) a supplementary valuation roll to be prepared, if section 78 applies; or
 - (b) the valuation roll to be amended, if section 79 applies.

Supplementary valuations 35

- 78.** (1) A municipality must, whenever necessary, cause a supplementary valuation to be made in respect of any rateable property—
- (a) incorrectly omitted from the valuation roll;
 - (b) included in a municipality after the last general valuation;
 - (c) subdivided or consolidated after the last general valuation; 40
 - (d) of which the market value has substantially increased or decreased for any reason after the last general valuation;
 - (e) substantially incorrectly valued during the last general valuation; or
 - (f) that must be revalued for any other exceptional reason.
- (2) For the purposes of subsection (1), the provisions of Part 2 of Chapter 4 and, Chapters 5, 6 and 7, read with the necessary changes as the context may require, are applicable, except that—
- (a) a municipal valuer who prepared the valuation roll may be designated for the preparation and completion of the supplementary valuation roll; and
 - (b) the supplementary valuation roll takes effect on the first day of the month 50 following the completion of the public inspection period required for the supplementary valuation roll in terms of section 49 (as read with this section), and remains valid for the duration of the municipality's current valuation roll.

- (3) Supplementary valuations must reflect the market value of properties determined in accordance with —
- (a) market conditions that applied as at the date of valuation determined for purposes of the municipality's last general valuation; and
 - (b) any other applicable provisions of this Act. 5
- (4) Rates on a property based on the valuation of that property in a supplementary valuation roll become payable with effect from —
- (a) the effective date of the supplementary roll, in the case of a property referred to in subsection (1) (a), (e) or (f);
 - (b) the date on which the property was included in the municipality, in the case of a property referred to in subsection (1) (b); 10
 - (c) the date on which the subdivision or consolidation of the property was registered in the Deeds Office, in the case of a property referred to in subsection (1) (c); or
 - (d) the date on which the event referred to in subsection (1) (d) has occurred. 15

Amendment of valuation rolls

79. A municipality must regularly cause its valuation roll to be amended to reflect any changes to the particulars on the roll, except that changes to the roll in circumstances where section 78 applies may only be effected through a supplementary roll in accordance with that section. 20

CHAPTER 9

MISCELLANEOUS MATTERS

Condonation of non-compliance with time periods

80. (1) The MEC for local government in a province may, on good cause shown, and on such conditions as the MEC may impose, condone any non-compliance with a provision of this Act requiring any act to be done within a specified period or permitting any act to be done only within a specified period. 25

(2) Non-compliance with section 21, 31 or 32 may not be condoned in terms of subsection (1).

(3) The powers conferred in terms of this section on an MEC for local government may only be exercised within a framework as may be prescribed. 30

Provincial monitoring

81. (1) The MEC for local government in a province must monitor whether municipalities in the province comply with the provisions of this Act.

(2) If a municipality fails to comply with a provision of this Act, the MEC may take any appropriate steps to ensure compliance, including proposing an intervention by the provincial executive in terms of section 139 of the Constitution. 35

National monitoring and reporting

82. (1) The Minister may monitor, and from time to time investigate and issue a public report on, the effectiveness, consistency, uniformity and application of municipal valuations for rates purposes. 40

(2) The investigation may include—

- (a) studies of the ratio of valuations to sale prices; and
- (b) other appropriate statistical measures to establish the accuracy of the valuations, including the relative treatment of higher value and lower value property. 45

(3) Investigations in terms of subsection (1) may be undertaken in respect of one or more or all municipalities.

Regulations

83. (1) The Minister may make regulations not inconsistent with this Act concerning— 50

- (a) any matter that may be prescribed in terms of this Act;
 - (b) the preparation, contents, adoption, and enforcement of a municipal rates policy;
 - (c) the manner in which rates referred to in section 21 must be phased in and the criteria that municipalities must take into account; 5
 - (d) the property register;
 - (e) the form and contents of any document referred to in this Act, including any—
 - (i) declaration;
 - (ii) authorisation;
 - (iii) valuation roll; 10
 - (iv) objection to a valuation;
 - (v) appeal against a decision of a municipal valuer; and
 - (vi) notice;
 - (f) the valuation and rating of public service infrastructure;
 - (g) the procedure that must be followed in connection with— 15
 - (i) appeals to an appeal board against decisions of municipal valuers, including the procedure to lodge, oppose, adjudicate and dispose of such appeals; and
 - (ii) reviews by an appeal board of decisions of municipal valuers;
 - (h) the matters for which, or circumstances in which, an appeal board may condone non-compliance with a procedural requirement of this Act; 20
 - (i) the giving of reasons by an appeal board for its decisions;
 - (j) the funding of appeal boards by municipalities;
 - (k) inquiries by investigating tribunals to establish alleged misconduct by, or alleged incompetence of, members of appeal boards; 25
 - (l) inquiries by municipalities to establish alleged misconduct by, or alleged incompetence of, municipal valuers or assistant municipal valuers;
 - (m) fees payable for information or the issue of documents in terms of this Act; and
 - (n) any matter which in the opinion of the Minister is necessary for the effective carrying out or furtherance of the objects of this Act. 30
- (2) The Minister may by regulation in terms of subsection (1) declare a contravention of, or failure to comply with, any specific regulation an offence.
- (3) Regulations in terms of subsection (1) may treat different categories of properties, or different categories of owners of properties, differently. 35

Consultative processes before promulgation of regulations

- 84.** Before regulations in terms of section 83 are promulgated, the Minister must—
- (a) consult organised local government on the substance of those regulations; and
 - (b) publish the draft regulations in the *Government Gazette* for public comment.

Copyright of valuation rolls and other data 40

85. Copyright of valuation rolls and other documents produced by municipal valuers, assistant municipal valuers or data-collectors in the performance of their functions, and data collected by municipal valuers, assistant municipal valuers or data-collectors for the purpose of preparing valuation rolls, vests in the municipality concerned.

Offences 45

- 86.** (1) A person is guilty of an offence if that person—
- (a) contravenes section 43(1)(a) or (b), 44, 62(1)(b) or (c), or 74;
 - (b) wilfully obstructs, hinders or threatens a valuer or a member of or person authorised by an appeal board when the valuer, member or person performs a duty or exercises a power in terms of this Act; 50
 - (c) wilfully gives information in an objection in terms of section 50(1)(c) or in an appeal in terms of section 48 which is false in any material respect;
 - (d) after having been summoned in terms of section 75 fails—
 - (i) to be present at a meeting of an appeal board at the time and place specified in the summons; 55
 - (ii) to remain present until excused; or
 - (iii) to produce a document specified in the summons;

- (e) after having been called in terms of section 75 refuses—
 - (i) to appear;
 - (ii) to answer any question, except where the answer might incriminate him or her; or
 - (iii) to produce a document in that person’s custody; or
- (f) fails to comply with a request in terms of section 29(4), 42(1) (a) or (c) or 73 (a) or (c), or in response to such request wilfully supplies false or incorrect information in any material respect.

(2) A valuer is guilty of an offence if that valuer is grossly negligent in the exercise of the functions of office set out in section 34. 10

(3) A person convicted of an offence in terms of subsection (1) or (2) is liable to imprisonment not exceeding two years or to a fine as may be prescribed in applicable national legislation.

(4) A person convicted of an offence in terms of section 83(2) is liable to a fine or imprisonment not exceeding six months. 15

Application of Act when in conflict with other laws

87. This Act prevails in the event of any inconsistency between this Act and any other legislation regulating the levying of municipal rates.

Transitional arrangement: Valuation and rating under prior legislation

88. (1) Municipal valuations and property rating conducted before the commencement of this Act by a municipality in an area in terms of legislation repealed by this Act, may, despite such repeal, continue to be conducted in terms of that legislation until the date on which the valuation roll covering that area prepared in terms of this Act takes effect in terms of section 32 (1). 20

(2) For purposes of subsection (1), any reference in such repealed legislation to a “local authority”, “local council”, “metropolitan local council”, “rural council” or “other unit” of local government must — 25

- (a) in relation to an area situated within a metropolitan municipality, be regarded as referring to that metropolitan municipality;
- (b) in relation to an area situated within a local municipality, be regarded as referring to that local municipality; and 30
- (c) in relation to an area situated within a district management area, be regarded as referring to the district municipality in which that district management area falls.

Transitional arrangement: Use of existing valuation rolls and supplementary valuation rolls 35

89. (1) Until it prepares a valuation roll in terms of this Act, a municipality may—

- (a) continue to use a valuation roll and supplementary valuation roll that was in force in its area before the commencement of this Act; and
- (b) levy rates against property values as shown on that roll or supplementary roll. 40

(2) If a municipality uses valuation rolls and supplementary valuation rolls in terms of subsection (1) that were prepared by different predecessor municipalities, the municipality may impose different rates based on the different rolls, so that the amount payable on similarly situated properties is more or less similar.

(3) This section lapses four years from the date of commencement of this Act, and from that date any valuation roll or supplementary valuation roll that was in force before the commencement of this Act may not be used. 45

Transitional arrangement: Existing rates policies

90. (1) A rates policy adopted by a municipality before the commencement of this Act, including any revisions of such rates policy, continues to be of force after such commencement until the date on which the first valuation roll prepared by the municipality in terms of this Act takes effect in terms of section 32 (1). 50

(2) Any review of such rates policy after the commencement of this Act must take into account the aims of section 3 (3).

Transitional arrangement: Application of section 21

91. Section 21, read with section 88, also applies to rates levied on property referred to in section 21 in terms of legislation repealed by this Act, after the commencement of this Act.

Transitional arrangement: Liability of bodies corporate of sectional title schemes 5

92. (1) Section 10 does not apply in respect of rates levied against a valuation roll or supplementary valuation roll prepared before the effective date of the first valuation roll prepared in terms of this Act.

(2) Section 25 does not affect the liability of a body corporate of a sectional title scheme to a municipality, nor of the owner of a sectional title unit to the body corporate, for property rates levied against a valuation roll or supplementary valuation roll prepared before the effective date of the first valuation roll prepared in terms of this Act. 10

Transitional arrangement: Special rating areas

93. (1) A special rating area established by a municipality in terms of legislation repealed by this Act, continues after the commencement of this Act for the period for which it was established or until the municipality has recovered any capital expenditure it has incurred for the purpose of such special rating area, whichever period expires first. 15

(2) Section 22 (3) (c) must, in relation to a special rating area referred to in subsection (1), be complied with as from one year after the commencement of this Act.

Amendment of section 115 of Act 32 of 2000 20

94. Section 115 of the Municipal Systems Act is amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) Any notice or other document that is served on a person in terms of this Act or by a municipality in terms of any other legislation is regarded as having been served—”. 25

Amendment and repeal of legislation

95. The legislation specified in the Schedule is—

- (a) amended to the extent indicated in the third column of the Schedule; and
- (b) repealed to the extent indicated in the third column of the Schedule.

Short title and commencement 30

96. This Act is called the Local Government: Municipal Property Rates Act, 2004, and comes into operation on a date to be determined by the President by proclamation in the *Gazette*.

SCHEDULE**PART 1:
LAWS OF THE FORMER PROVINCE OF THE CAPE OF GOOD HOPE**

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|------------|---|--------------------------------------|----|
| | | | 5 |
| 1. | City of Kimberley Municipal Ordinance, 1913 (Ordinance 42 No. 4 of 1913) | Section 6 | |
| 2. | Municipal Ordinance, 1974 (Ordinance No. 20 of 1974) | Part 2 of Chapter VIII | |
| 3. | Municipal Amendment Ordinance, 1976 (Ordinance No. 15 of 1976) | Section 5 | 10 |
| 4. | Divisional Councils Ordinance, 1976 (Ordinance No. 18 of 1976) | Part 2 of Chapter VIII | |
| 5. | Municipal Second Amendment Ordinance, 1978 (Ordinance No. 12 of 1978) | Sections 10 and 11 | 15 |
| 6. | Divisional Councils Amendment Ordinance, 1978 (Ordinance No. 18 of 1978) | Sections 9 and 10 | |
| 7. | Municipal Amendment Ordinance, 1979 (Ordinance No. 7 of 1979) | Sections 16 and 17 | |
| 8. | Divisional Councils Second Amendment Ordinance, 1979 (Ordinance No. 14 of 1979) | Sections 19, 20 and 21 | 20 |
| 9. | Municipal Amendment Ordinance, 1980 (Ordinance No. 17 of 1980) | Sections 7 to 11 | |
| 10. | Divisional Councils Second Amendment Ordinance, 1980 (Ordinance No. 19 of 1980) | Sections 8 to 15 | 25 |
| 11. | Municipal Second Amendment Ordinance, 1980 (Ordinance No. 23 of 1980) | Section 1 | |
| 12. | Divisional Councils Third Amendment Ordinance, 1980 (Ordinance No. 26 of 1980) | Section 1 | |
| 13. | Divisional Councils Amendment Ordinance, 1981 (Ordinance No. 3 of 1981) | Sections 3 and 4 | 30 |
| 14. | Municipal Amendment Ordinance, 1981 (Ordinance No. 10 of 1981) | Section 2 | |
| 15. | Municipal Amendment Ordinance, 1982 (Ordinance No. 6 of 1982) | Section 1 | 35 |
| 16. | Divisional Councils Amendment Ordinance, 1982 (Ordinance No. 11 of 1982) | Section 3 | |
| 17. | Municipal Second Amendment Ordinance, 1982 (Ordinance No. 16 of 1982) | Section 4 | |
| 18. | Changing of the Financial Year of Local Authorities Ordinance, 1983 (Ordinance No. 4 of 1983) | Section 4 | 40 |
| 19. | Municipal Second Amendment Ordinance, 1983 (Ordinance No. 16 of 1983) | Section 7 | |
| 20. | Divisional Councils Second Amendment Ordinance, 1983 (Ordinance No. 21 of 1983) | Section 6 | 45 |
| 21. | Municipal Amendment Ordinance, 1986 (Ordinance No. 3 of 1986) | Sections 1, 2 and 3 | |

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|---|-------------------------------|----|
| 22. | Divisional Councils Amendment Ordinance, 1986 (Ordinance No. 4 of 1986) | Sections 1, 2 and 3 | |
| 23. | Valuation Act, 1978 (Act No. 30 of 1978), Transkei | The whole | 5 |
| 24. | Municipalities Act, 1979 (Act No. 25 of 1979) | Part 2 of Chapter 8 | |
| 25. | Municipal Act, 1987 (Act No. 17 of 1987), Ciskei | Part 2 of Chapter 10 | |
| 26. | Valuation Ordinance, 1994 (Ordinance No. 26 of 1994) | The whole | |
| 27. | Proclamation No. 147 of 1993 | The whole | |
| 28. | Proclamation No. 148 of 1993 | The whole | 10 |

**PART 2:
LAWS OF THE FORMER PROVINCE OF NATAL**

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|---|---|----|
| 1. | Glencoe Rate Exemption Ordinance, 1941 (Ordinance No. 19 of 1941) | The whole | 15 |
| 2. | Development and Service Board Ordinance, 1941 (Ordinance No. 20 of 1941) | Sections 8 and 17(1)(d), (d)bis, (d)ter | 20 |
| 3. | Development and Services Board Amendment Ordinance, 1942 (Ordinance No. 12 of 1942) | Section 6 | |
| 4. | Pietermaritzburg Extended Powers Ordinance, 1942 (Ordinance No. 20 of 1942) | Sections 3 and 11 | |
| 5. | Local Health Commission (Public Health Areas Control): Amendment Ordinance, 1954 (Ordinance No. 14 of 1954) | Sections 2(1) and 4(1)(a) and (2) | 25 |
| 6. | Weenen Town Board Water Rates Ordinance, 1957 (Ordinance No. 22 of 1957) | The whole | 30 |
| 7. | Incorporated Area Rates Adjustment Ordinance, 1958 (Ordinance No. 5 of 1958) | The whole | |
| 8. | Local Health Commission (Public Health Areas Control): Amendment Ordinance, 1967 (Ordinance No. 5 of 1967) | Section 9(a) and (b) | 35 |
| 9. | Local Health Commission (Public Health Areas Control): Amendment Ordinance, 1971 (Ordinance No. 51 of 1971) | Section 2 | |
| 10. | Local Authorities Ordinance, 1974 (Ordinance No. 25 of 1974) | Part 6 of Chapter X | 40 |
| 11. | Local Authorities Amendment Ordinance, 1975 (Ordinance No. 22 of 1975) | Section 2 | |
| 12. | Local Authorities Amendment Ordinance, 1976 (Ordinance No. 7 of 1976) | Sections 3 and 4 | |
| 13. | Durban Extended Powers Consolidated Ordinance, 1976 (Ordinance No. 18 of 1976) | Chapters X and XI | 45 |
| 14. | Local Authorities Amendment Ordinance, 1977 (Ordinance No. 10 of 1977) | Sections 5 and 6 | |

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|---|---------------------------------|----|
| 15. | Durban Extended Powers: Amendment Ordinance, 1977 (Ordinance No. 13 of 1977) | Sections 3, 4 and 5 | |
| 16. | Local Authorities Amendment Ordinance, 1978 (Ordinance No. 15 of 1978) | Sections 6, 7 and 8 | 5 |
| 17. | Development and Service Board Second Amendment Ordinance, 1978 (Ordinance No. 21 of 1978) | Sections 1 and 2 | |
| 18. | Local Authorities Second Amendment Ordinance, 1978 (Ordinance No. 29 of 1978) | Sections 3 and 4 | 10 |
| 19. | Local Authorities Third Amendment Ordinance, 1978 (Ordinance No. 39 of 1978) | Section 2 | |
| 20. | Local Authorities Second Amendment Ordinance, 1979 (Ordinance No. 14 of 1979) | Sections 2 and 3 | |
| 21. | Durban Extended Powers: Amendment Ordinance, 1979 (Ordinance No. 15 of 1979) | Sections 14, 15 and 16 | 15 |
| 22. | Pinetown Extended Powers Ordinance, 1979 (Ordinance No. 17 of 1979) | Section 3 | |
| 23. | Local Authorities Fourth Amendment Ordinance, 1979 (Ordinance No. 24 of 1979) | Section 8 | 20 |
| 24. | Local Authorities Amendment Ordinance, 1980 (Ordinance No. 8 of 1980) | Sections 2(1), 3 and 4 | |
| 25. | Durban Extended Powers: Amendment Ordinance, 1980 (Ordinance No. 18 of 1980) | Sections 6 and 7 | |
| 26. | Local Authorities Second Amendment Ordinance, 1980 (Ordinance No. 27 of 1980) | Sections 7 and 8 | 25 |
| 27. | Durban Extended Powers: Amendment Ordinance, 1981 (Ordinance No. 15 of 1981) | Section 6 | |
| 28. | Local Authorities Second Amendment Ordinance, 1981 (Ordinance No. 20 of 1981) | Section 2 | 30 |
| 29. | Local Authorities Amendment Ordinance, 1982 (Ordinance No. 3 of 1982) | Section 1 | |
| 30. | Local Authorities Second Amendment Ordinance, 1982 (Ordinance No. 5 of 1982) | Sections 7 to 11 | |
| 31. | Durban Extended Powers: Amendment Ordinance, 1982 (Ordinance No. 12 of 1982) | Section 4 | 35 |
| 32. | Local Authorities Third Amendment Ordinance, 1982 (Ordinance No. 16 of 1982) | Section 4 | |
| 33. | Local Authorities Amendment Ordinance, 1983 (Ordinance No. 5 of 1983) | Sections 4 to 9 | 40 |
| 34. | Pietermaritzburg Loan and Extended Powers Ordinance, 1983 (Ordinance No. 8 of 1983) | Section 12 | |
| 35. | Local Authorities Amendment Ordinance, 1984 (Ordinance No. 4 of 1984) | Section 1 | |
| 36. | Local Authorities Fourth Amendment Ordinance, 1984 (Ordinance No. 9 of 1984) | Section 1 | 45 |
| 37. | Durban Extended Powers: Amendment Ordinance, 1984 (Ordinance No. 14 of 1984) | Sections 5, 6(a) and (b), and 7 | |

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|--|---------------------------------|----|
| 38. | Local Authorities Amendment Ordinance, 1985 (Ordinance No. 9 of 1985) | Sections 35 to 38 | |
| 39. | Penalties Amendment Ordinance, 1986 (Ordinance No. 8 of 1986) | Paragraph X(ix) of the Schedule | 5 |
| 40. | Local Authorities Amendment Ordinance, 1986 (Ordinance No. 11 of 1986) | Sections 2, 3 and 4 | |
| 41. | Proclamation No. 4 of 1988 | Paragraphs 29, 30 and 31 | 10 |
| 42. | Proclamation No. 16 of 1989 | Paragraphs 5 to 8 | |
| 43. | Proclamation No. 12 of 1990 | Paragraphs 2, 3 and 4 | |
| 44. | Proclamation No. 27 of 1990 | Section 1 | |
| 45. | Proclamation No. 54 of 1990 | The whole | |
| 46. | Proclamation No. 55 of 1990 | Paragraph 8 | 15 |
| 47. | Proclamation No. 55 of 1991 | Paragraphs 8(1) and 9 to 12 | |
| 48. | Proclamation No. 56 of 1992 | Paragraphs 2 and 3 | |
| 49. | Proclamation No. 4 of 1994 | Paragraphs 5(1), 7 and 8(2) | |
| 50. | Proclamation No. 6 of 1994 | Paragraph 6 | |

PART 3:
LAWS OF THE FORMER PROVINCE OF THE ORANGE FREE STATE

20

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|---|-------------------------------|----|
| 1. | Local Government Ordinance, 1962 (Ordinance No. 8 of 1962) | Parts IV and V of Chapter XI | 25 |
| 2. | Local Government Amendment Ordinance, 1963 (Ordinance No. 13 of 1963) | Section 2 | |
| 3. | Local Government Amendment Ordinance, 1966 (Ordinance No. 15 of 1966) | Sections 7 to 10 | 30 |
| 4. | Local Government Amendment Ordinance, 1967 (Ordinance No. 6 of 1967) | Section 2 | |
| 5. | Local Government Amendment Ordinance, 1968 (Ordinance No. 7 of 1968) | Section 5 | |
| 6. | Local Government Further Amendment Ordinance, 1968 (Ordinance No. 14 of 1968) | Section 1 | 35 |
| 7. | Local Government Amendment Ordinance, 1971 (Ordinance No. 11 of 1971) | Section 10 | |
| 8. | Local Government Amendment Ordinance, 1972 (Ordinance No. 6 of 1972) | Section 14 | 40 |
| 9. | Local Government Further Amendment Ordinance, 1974 (Ordinance No. 13 of 1974) | Section 3 | |
| 10. | Local Government Amendment Ordinance, 1975 (Ordinance No. 3 of 1975) | Section 4 | |

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|---|-------------------------------|----|
| 11. | Local Government Further Amendment Ordinance, 1977 (Ordinance No. 9 of 1977) | Sections 5 and 6 | |
| 12. | Local Government Third Amendment Ordinance, 1977 (Ordinance No. 14 of 1977) | Section 5 | 5 |
| 13. | Local Government Amendment Ordinance, 1979 (Ordinance No. 2 of 1979) | Section 7 | |
| 14. | Local Government Amendment Ordinance, 1982 (Ordinance No. 7 of 1982) | Section 1 | 10 |
| 15. | Local Government Further Amendment Ordinance, 1982 (Ordinance No. 14 of 1982) | Section 5 | |
| 16. | Local Government Amendment Ordinance, 1985 (Ordinance No. 6 of 1985) | Section 1 | |
| 17. | Local Government Amendment Ordinance, 1986 (Ordinance No. 19 of 1986) | Sections 7 and 8 | 15 |
| 18. | Proclamation No. 18 of 1988 | Paragraphs 40(b) and 43 | |
| 19. | Proclamation No. 5 of 1991 | Paragraphs 3 and 4 | |
| 20. | Proclamation No. 86 of 1991 | Paragraphs 6 and 7 | |
| 21. | Proclamation No. 90 of 1993 | Paragraph 12 | 20 |
| 22. | Proclamation No. 136 of 1993 | Paragraphs 7 to 25 | |
| 23. | Proclamation No. 15 of 1996 | Paragraph 1 | |

**PART 4:
LAWS OF THE FORMER PROVINCE OF THE TRANSVAAL**

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|--|-------------------------------|----|
| 1. | Local Government Ordinance, 1939 (Ordinance No. 17 of 1939) | Section 50 | 25 |
| 2. | Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943) | Sections 26bis and 29 | 30 |
| 3. | Local Government Amendment Ordinance, 1944 (Ordinance No. 19 of 1944) | Section 3 | |
| 4. | Peri-Urban Areas Health Board Amendment Ordinance, 1945 (Ordinance No. 21 of 1945) | Section 2 | 35 |
| 5. | Peri-Urban Areas Health Board Amendment Ordinance, 1948 (Ordinance No. 24 of 1948) | Section 10 | |
| 6. | Local Government Amendment Ordinance, 1965 (Ordinance No. 24 of 1965) | Section 3 | |
| 7. | Local Government Amendment Ordinance, 1966 (Ordinance No. 24 of 1966) | Section 5 | 40 |
| 8. | Local Government Amendment Ordinance, 1968 (Ordinance No. 15 of 1968) | Section 4 | |
| 9. | Transvaal Board for the Development of Peri-Urban Areas Health Board Amendment Ordinance, 1970 (Ordinance No. 9 of 1970) | Section 4 | 45 |

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|---|-------------------------------|----|
| 10. | Transvaal Board for the Development of Peri-Urban Areas Health Board Amendment Ordinance, 1976 (Ordinance No. 12 of 1976) | Section 2 | 5 |
| 11. | Local Authorities Rating Ordinance, 1977 (Ordinance No. 11 of 1977) | The whole, except section 48 | |
| 12. | Local Authorities Rating Amendment Ordinance, 1978 (Ordinance No. 10 of 1978) | The whole | |
| 13. | Local Government Amendment Ordinance, 1978 (Ordinance No. 16 of 1978) | Sections 4 and 12 | 10 |
| 14. | Local Government Amendment Ordinance, 1980 (Ordinance No. 13 of 1980) | Section 2 | |
| 15. | Local Authorities Rating Amendment Ordinance, 1980 (Ordinance No. 15 of 1980) | The whole | 15 |
| 16. | Local Authorities Rating Amendment Ordinance, 1981 (Ordinance No. 7 of 1981) | The whole | |
| 17. | Local Authorities Rating Amendment Ordinance, 1982 (Ordinance No. 7 of 1982) | The whole | |
| 18. | Local Authorities Rating Amendment Ordinance, 1983 (Ordinance No. 10 of 1983) | The whole | 20 |
| 19. | Local Authorities Rating Amendment Ordinance, 1984 (Ordinance No.12 of 1984) | The whole | |
| 20. | Local Authorities Rating Amendment Ordinance, 1985 (Ordinance No. 17 of 1985) | The whole | 25 |
| 21. | Proclamation No. 46 of 1990 | The whole | |
| 22. | Proclamation No. 3 of 1992 | Paragraph 5 | |
| 23. | Proclamation No. 17 of 1994 | The whole | |

**PART 5:
OTHER LAWS**

| No. | Title, No. and year of law | Extent of amendment or repeal | |
|-----|--|-------------------------------|----|
| 1. | Rating of State Property Act, 1984 (Act No. 79 of 1984) | The whole | 5 |
| 2. | Local Authorities Affairs Amendment Act, 1991 (Act No. 127 of 1991) | Sections 6 and 7 | |
| 3. | Western Cape Law on the Amendment of the Municipal Ordinance of 1974, 1994 (Law No. 1 of 1994) | Section 2 | 10 |
| 4. | Western Cape Law on the Amendment of the Divisional Councils Ordinance of 1976, 1994 (Law No. 2 of 1994) | Section 2 | |
| 5. | Local Government Amendment Act, 1996 (Act No. 8 of 1996), Gauteng | The whole | |
| 6. | Local Government Ordinance Amendment Act, 1997 (Act No. 3 of 1997), Free State | Section 1 | 15 |
| 7. | Local Authorities Rating Amendment Act, 1997 (Act No. 5 of 1997), Gauteng | The whole | |
| 8. | Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) | Section 115 amended | 20 |

MEMORANDUM ON THE OBJECTS OF THE LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES BILL, 2003

1. BACKGROUND

- 1.1** Property rates represent a major source of revenue for local government, and is as such the main source of discretionary revenue for municipalities. Property rates are especially important in urban areas, and historically rates were levied only in towns and cities. Rating was, historically, done differently in the various provinces. Each of the former four provinces had their own legislation and their own system of valuation and rating. As noted in the White Paper on Local Government, a simpler and more uniform system is needed as part of local government reform.
- 1.2** Municipalities derive their power to levy property rates directly from the Constitution (see in this regard section 229(1) of the Constitution). “Property” is not defined in the Constitution and is construed in context to mean land including any immovable property on or in the land or under the surface of the land. It includes all land in the Republic as the whole of the territory of the Republic is covered by municipalities. The constitutional power conferred on municipalities to levy property rates, though, is not an unfettered power, and the Constitution does not allow municipalities to exercise this power solely within their own discretion. Firstly, section 229(2)(a) restrains municipalities from exercising their fiscal powers in a way that would materially and unreasonably prejudice—
- (a) national economic policies;
 - (b) economic activities across municipal boundaries; or
 - (c) the national mobility of goods, services, capital or labour.
- And secondly, section 229(2)(b) allows national legislation to regulate the exercise of this power by municipalities.
- 1.3** The Local Government: Property Rates Bill is accordingly not the source of the power in terms of which municipalities may levy property rates, but an instrument to give effect to section 229(2)(a) and (b) of the Constitution. As such it establishes a uniform system of regulation and circumscribes the limits that are necessary to avoid material and unreasonable prejudice to national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital and labour.
- 1.4** The Bill regulates and limits the fiscal powers of municipalities in such a way as to achieve the overall White Paper objective of thoroughly reforming the current system of property taxation with a view to:
- Supporting sustainable local government by providing a stable and buoyant revenue source within the discretionary control of municipal councils;
 - assisting municipalities in broadening their rates base to property outside former municipal boundaries, and providing transitional rules to phase in property rates in these areas; and
 - providing uniform national rules regarding valuation and appeals, rating policy, and rate setting.

2. OBJECTS OF BILL

- 2.1.1** Chapter 1 of the Bill defines the terminology used in the Bill.
- 2.2.2** Chapter 2 of the Bill deals with rating. It confirms the constitutional power of municipalities to levy rates in their respective areas, but to avoid a duplication of rates in the areas of district municipalities, it vests the rating power in local municipalities. The Bill does, however, allow district

municipalities to levy rates in district management areas, i.e. areas for which no local municipality has been established.

- 2.2.3** Rates on site only or improvements only are disallowed. The rate may either be a rate based on the market value of property or a fixed rate for property within a specified valuation band, provided the band is below a prescribed valuation limit. Fixed rates would accordingly only apply to areas where valuations are at the lower end of the scale.
- 2.2.4** Echoing the duty imposed on municipalities by the Local Government: Municipal Systems Act to adopt a tariffs policy to govern its tariffs decisions, the chapter requires councils to levy rates in accordance with a rates policy which they must adopt and regularly review. The process for the adoption of a rates policy must substantially be the same as that determined by the Local Government: Municipal Systems Act for a tariffs policy, and accordingly includes community participation in the decision-making process.
- 2.2.5** In terms of Chapter 2 rates, with certain exceptions, must be imposed on all rateable property within the municipality. The aim is that municipalities should not be selective in targeting properties for rating purposes. This provision obviously serves transparency, but is also necessary to establish a clear perspective of a municipality's potential revenue capacity in terms of property rates. Where there is a need to alleviate the rates burden, for instance on the poor, the Bill envisages that this should be effected by way of rates exemptions, rebates and reductions. All exemptions, rebates and reductions must be in accordance with an open and accessible process and disclosed in the annual budget.
- 2.2.6** Chapter 2 allows municipalities within certain limits to differentiate between categories of properties when levying rates. It is proposed that a municipality may not levy:
- different rates on different categories of residential properties;
 - levy a rate on non-residential property that exceeds a prescribed ratio to the rate on residential properties; or
 - levy rates which unreasonably discriminate between categories of commercial properties, industrial properties or agricultural properties.
- 2.2.7** In line with current practice the Bill provides for rates to be adopted by a municipality by council resolution and to be promulgated by notice conspicuously displayed at municipal offices after due notice in the public media.
- 2.2.8** Chapter 2 also endeavours to give practical effect to the exclusions in terms of which a municipality may not exercise its fiscal powers. In this regard the chapter disallows rates on the following categories of property:
- Land reform beneficiaries;
 - sea shores, territorial waters of the Republic, Prince Edward Islands and islands of which the state is the owner;
 - mineral rights; and
 - a category of property identified by the Minister by notice in the *Gazette*.

There is also a 30% exclusion of rates on all public service infrastructure, such as national and provincial roads, power lines running across municipal boundaries, etc.; and a R15 000 exclusion on the value of all residential properties.

- 2.2.9** To ensure equitable treatment of different categories of properties, Chapter 2 empowers the Minister, acting in consultation with the Minister of Finance, to set a limit, by notice in the *Gazette*, on the percentage by which rates on property may be increased annually. It also provides for the phasing in of rates on newly rateable property or on property of which the owner is a land reform beneficiary. Chapter 2, in conclusion provides for additional rates to be levied in special rating districts to fund improvements exclusively in that district.
- 2.3.1** Chapter 3 of the Bill regulates liability for property rates and states the general principle that the owner of a property must pay the rates on the property. Joint owners are jointly and severally liable for rates, but in the case of a sectional title scheme the owner of each sectional title unit must pay the rate on the unit. The body corporate in sectional schemes would no longer be responsible for collecting and payment of rates.
- 2.3.2** Whilst Chapter 9 of the Local Government: Municipal Systems Act, which prescribes a municipal credit-control and debt-collection system, would generally be applicable to the collection of rates, the Bill contains a number of additional provisions. These provisions relate to the method and time of payment of rates, the obligation on the municipality to furnish accounts and the recovery of arrears from tenants and occupiers and agents.
- 2.4.1** Chapter 4 of the Bill provides for the preparation and implementation of a valuation roll of rateable property in a municipality. The aim of this and following chapters is mainly to simplify the existing, extremely cumbersome, process of establishing valuation rolls.
- 2.4.2** In terms of the new process, each municipality must appoint a municipal valuer to value all rateable properties in the municipality, to prepare the valuation roll and to submit the roll to the council. Two or more municipalities may by agreement appoint the same person as municipal valuer. A person who is not a municipal official may be appointed as municipal valuer only through an open, competitive and transparent process. A municipal valuer must be a person registered as a valuer in terms of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000), but a councillor may not be appointed. Municipal valuers will replace the existing valuation boards.
- 2.4.3** In addition, Chapter 4 provides for the appointment of assistant municipal valuers, the conduct of municipal valuers, their powers and the protection of confidential information.
- 2.4.4** A valuation roll becomes effective as from the start of a financial year and remains valid for a period of up to four years.
- 2.5.1** Chapter 5 provides for the criteria in terms of which property must be valued. The general principle is that property must be valued according to its market value, i.e. the amount the property would realise if sold in the open market by a willing seller to a willing buyer. The techniques that may be used must accord with generally recognised valuation practices, methods and standards, and also the provisions of the Bill. These include aerial photography and computer-assisted mass appraisal systems.
- 2.5.2** In the case of sectional title schemes, each sectional title unit must be separately valued.

- 2.6.1** Chapter 6 regulates the contents and processing of valuation rolls. It requires all rateable property to be listed on the roll, together with relevant details about each property and the owner.
- 2.6.2** Once a valuation roll has been completed and submitted by the municipal valuer to the municipality, the municipal manager must without delay give notice in the media that the roll is open for public inspection and that any person who wishes to lodge an objection against any entry in the roll may do so within a stated period. All objections received must then be considered and decided by the municipal valuer. If the municipal valuer agrees with an objection, the valuation roll must be adjusted accordingly. If an adjustment in the valuation of a property is more than 10 per cent upwards or downwards, the matter must be referred to the valuation appeal board for review.
- 2.6.3** The lodging of an objection does not defer liability for payment of rates, but if an adjustment to the valuation roll following a successful objection affects the amount of the rate payable by the owner, the municipal manager must calculate the difference and either repay or recover the difference from the owner.
- 2.6.4** The municipal valuer's decision on any objection is not final, and an objector who is not satisfied with the decision, may appeal against the decision to the valuation appeal board.
- 2.7.1** Chapter 7 provides for the establishment of valuation appeal boards by the MEC for local government in a province. The MEC may establish as many boards as may be needed but at least one in each metropolitan municipality and one in each district municipality.
- 2.7.2** Appeal boards are established, firstly, to decide on appeals against the decision of a municipal valuer when an objection has been lodged and, secondly, to review a decision of a municipal valuer where a valuation has been adjusted upwards or downwards by more than 10 per cent.
- 2.7.3** An appeal board must consist of a chairperson with a legal qualification. The appeal board must also have additional members with sufficient knowledge and experience of the valuation of immovable property and methods of valuation. The municipalities will be liable for the cost of valuation appeal boards.
- 2.7.4** As is the case with objections, an appeal will not defer payment of rates due in accordance with the valuation as specified in the valuation roll. If a successful appeal affects the amount of the rate payable, the municipal manager must either repay the overpayment to or recover the underpayment from the owner.
- 2.8** Chapter 8 provides for supplementary valuations of properties where applicable.
- 2.9.1** Included in Chapter 8 are miscellaneous matters pertaining to the Bill, such as the monitoring of municipal valuations, the promulgation of regulations in order to enhance the effectiveness of the Bill and the rendering of certain actions criminally punishable.
- 2.9.2** It also contains transitional arrangements which will, for instance, enable municipalities to use existing valuation rolls for up to four years from the promulgation of this Bill.

3. CONSULTATION

The Bill was published for public comment and appropriately adjusted in view of comments received. The following stakeholders were also consulted: Department of Housing; Department of Land Affairs; Department of Minerals and Energy; Department of Public Enterprises; Department of Public Works; Department of Water Affairs and Forestry; Financial and Fiscal Commission; National Economic, Development and Labour Council; National House of Traditional Leaders; National Treasury; South African Council of Valuers; South African Institute of Valuers; and South African Local Government Association (Salga).

4. FINANCIAL IMPLICATIONS FOR STATE

The removal of the rebate on state property will have implications for national government. The Department of Provincial and Local Government conducted two studies, one in 1999 and the other in 2001, on the impact of rating state property on the national fiscus (including the Bill's impact in removing the 20% rebate, and the demarcation impact of wall-to-wall municipalities). These studies indicate that, if all municipalities rate all state property at 100% of the market value, the total bill to national government will be between R1 billion and R3 billion. This represents an additional bill of between R0,4 billion and R2,4 billion over and above the R600 million that the national and provincial governments currently pay. The actual impact on the national fiscus, however, cannot be exactly determined because it depends on—

- * where the state property is located;
- * whether or not they provide rebates to or exemptions on state property; and
- * the actual rate municipalities levy on state property. The impact will be gradual, because the Bill contains mandatory phasing-in provisions. The financial implications for local government will be quite positive. With a broadened tax base, municipal revenue potential will be significantly enhanced.

5. PARLIAMENTARY PROCEDURE

The State Law Advisers and the national Department of Provincial and Local Government are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.