

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

Kenya Gazette Supplement No. 6 (Kwale County Bills No. 5)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KWALE COUNTY BILLS, 2019

NAIROBI, 11th April , 2019

CONTENT

Bill for introduction into the County Assembly of Kwale—

PAGE

The Kwale County Rating Bill, 2019 1

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

THE KWALE COUNTY RATING BILL, 2019
ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Application of the Act.
- 3—Purpose of the Act.
- 4—Interpretation.

PART II—RATEABLE PROPERTY

- 5—Rating Authority.
- 6—Rateable Land.
- 7—Non-rateable land.
- 8—Valuation roll.
- 9—Ratepayer.
- 10—Entry of ratepayer in rating information database and count valuation roll.
- 11—Liability to pay rates.
- 12—General rate.
- 13—Categories of Rateable land.
- 14—Uniform annual general charge.
- 15—Rating in common ownership.
- 16—Forms of rating.
- 17—Imposition of rates.
- 18—Calendar year on financial year.
- 19—Deemed amount of rates.
- 20—Default of payment of rate.
- 21—Liability for payment of rates.
- 22—Collection of rates.
- 23—Contribution in lieu of rates.
- 24—Penalties for late payment of rates.

- 25—Waiver of Rates and Interest.
- 26—Recovery of rates.
- 27—Recovery of rates from persons paying rent.
- 28—Rates chargeable on property.
- 29—Statement of payment of rates and other charges.
- 30—Publication and service of charges.
- 31—Valuer.

PART III—RATING INFORMATION DATABASE AND RATES RECORDS

- 32—Rating information database.
- 33—Inspection of rating information.
- 34—Inspection of complete rating information database.
- 35—County shall inform owners of right to withhold certain information from database.
- 36—Owner entered on a database may require county to withhold information from database.
- 37—Notification of surrender of termination of lease or licence.
- 38—Availability of database.
- 39—Objections.
- 40—Notification of change of ownership of a rating area.
- 41—Notification of transfer or assignment of lease or licence.
- 42—Effect of notice on liability for rates.
- 43—Notification of change of name.

PART IV—ASSESSMENT, PAYMENT AND RECOVERY OF RATE AND REMISSION AND POSTPONMENT

- 44—Rates shall be assessed in accordance with values and factors.
- 45—Notice of rates assessment.
- 46—Contents of rates assessment.
- 47—Rates invoice.
- 48—Payment of rates.
- 49—Appointment of a collector.

- 50—Power not to collect small amounts
- 51—Policy for early payments of rates
- 52—Policy for payment of rates for subsequent financial year
- 53—Penalties on unpaid rates
- 54—Imposition of penalty
- 55—Recovery of rates in owner in default
- 56—Proceedings to recover rates
- 57—Service of summons
- 58—Limitation of time for recovery of rates
- 59—Enforcement of judgements

PART V—MISCELLANEOUS

- 60—Power to make regulations
- 61—Savings

THE KWALE COUNTY RATING BILL, 2019

A Bill for

AN ACT of the Kwale County Assembly to give effect to Article 209 (3) of the Constitution, to provide for the imposition of property rates on land and buildings in the County and for connected purposes

ENACTED by the County Assembly of Kwale, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kwale County Rating Act, 2019. Short title.

2. (1) This Act applies to all land in the County including public land as defined and provided for in section 25 of the Valuation for Rating Act. Application of Act.

(2) Without prejudice to subsection (1), rates shall be imposed only on rateable property.

3. The object of this Act is—

Purpose of the Act.

- (a) to provide the County Government with flexible powers to set, assess and collect rates pursuant to Article 209 (3) of the Constitution;
- (b) to ensure that rates imposed by the County Government reflect decisions made in a transparent and consultative manner;
- (c) to provide for process and information to ensure rate tax payers can identify and understand their liability for rates; to establish clarity, certainty and sustainability in rating matters; and
- (d) set out mechanism to allow the county to raise revenue.

4. In this Act, unless the context otherwise requires— Interpretation.

“agricultural rental value rate” has the means assigned to it in accordance with paragraph 1 of Schedule 2;

“area rate” has the meaning assigned to it in accordance with paragraph 1 of Schedule 1;

“County Executive Committee Member” means the County Executive Committee Member responsible for Land;

“county receiver of revenue” has the meaning given by the County Revenue Administration Act, 2019;

“financial year” means a period of twelve months starting on 1st July;

“improvement rate” has the meaning assigned to it in paragraph 2 of Schedule 3;

“land” includes any improvements on, in or under the land;

“prescribed” means prescribed by the Regulations made under this Act;

“rate” means a rate imposed under this Act;

“rateable area” means an area for which a form or method of rating is or may be adopted or an area for which a rate is or may be imposed

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

“rateable property” has the same meaning as in the Valuation for Rating Act;

“rating ” means—

- (a) a form or method of rating is or may be adopted; or
- (b) a rate is or may be imposed;

“rating Authority” has the meaning assigned by section 5 of this Act

“site value rate” has the meaning assigned to it in clause 1 of Schedule 3;

“supplementary valuation roll” means any supplementary valuation roll prepared under the Valuation for Rating Act; and

“valuation roll” means any valuation roll prepared under the Valuation for Rating Act.

PART II—ADMINISTRATION AND RATEABLE LAND

5.(1) There shall be, in the County Government department responsible for matters relating to land in the County, a rating authority who will be a public officer designated by the Executive Committee Member in consultation with the member of the County Executive Committee responsible for finance. ^{Rating Authority}

(2) A person designated and/ or appointed as a rating authority shall be—

- (a) a qualified and experienced in matters relating to land, economics, business administration or other related field.
- (b) a member of either Institution of Surveyors of Kenya (ISK), Royal Institute of Chartered Surveyors (RICS), International Federation of Surveyors (FIG), Kenya Institute of Planners(KIP) or any other related and recognized professional body.
- (c) experienced in public affairs.

(3) The rating authority will be responsible for the administration of this Act and shall—

- (a) administer this Act in accordance with the regulations and guidelines promulgated by the Executive Committee Member;
- (b) establish and manage a valuation roll or rolls and registers in the County.

6. All land in an area for which a form or method of rating is or may be adopted or land in an area for which a rate is or may be imposed Rateable land.

7.(1) The County Executive Committee member responsible for Finance in consultation with the County Executive Member and approval by the County Executive Committee may, by a notice in the *Gazette*, exempt certain category of land from the application of this Act. Non-rateable land.

(2) The County Executive Committee member shall, by notice in the *Gazette*, designate rateable areas.

(3) All un-surveyed land with allotment letters, shall be subjected to a prescribed annual fee which shall be known as Land Rent.

(4) Land Rent according to (3) shall be calculated according to a differential flat rate and the use to which the land is put, or capable of being put, or for which it is reserved.

8. The County Executive Committee Member shall cause a valuation to be made of every rateable property and the value shall be entered in the valuation roll. Valuation roll.

9. For the purposes of this Act, a ratepayer is the person who is named as a ratepayer in the rating information database and the County valuation roll maintained under this Act or the Valuation for Rating Act.

Ratepayer.

10. The name of the following persons shall be entered in the rating information in Geographical Information System (GIS) database, sub-county or urban valuation roll as the ratepayer in respect of a rating—

Entry of ratepayer in rating information database and County valuation roll.

- (a) the owner of the rating ; or
- (b) the lessee of the rating under a lease.

11. (1) The ratepayer for a rating area is liable to pay the rates that are due on the area.

Liability to pay rates.

(2) A person other than the ratepayer may become liable to pay the rates, if that person—

- (a) is mortgagee;
- (b) has purchased the property from the owner;
- (c) holds the property in trust;
- (d) or any other circumstances as may be prescribed.

12. The County Assembly, from time to time, on advice by the County Executive member of Finance may set a general rate for all rateable land within the County.

General rate.

(2) A general rate may be set—

- (a) at a uniform rate in shillings of rateable value for all rateable land; or
- (b) at different rates in shillings of rateable value for different categories of rateable land.

13. For the purposes of section 12 (2) (b), categories of rateable land are categories that—

Categories of rateable land.

- (a) are identified in the County Fiscal Strategy Paper as categories for setting the general rate differentially; and
- (b) are defined in terms of 1 or more of the matters listed in Schedule 2.

14. The in County Executive member of Finance, with approval of the County Assembly may set a uniform annual general charge for all rateable land within the County, being—

Uniform annual general charge.

- (a) a fixed amount per rating ; or
- (b) a fixed amount per separately used or inhabited part of a rating .

(2) A uniform annual general charge is a rate for the purposes of this Act.

15. Two or more ratings shall be treated as one for setting a rate if they are—

Rating in common ownership.

- (a) used jointly as a single ; and
- (b) contiguous or separated only by a road, railway, drain, water race, river, or stream.

16. (1) For the purpose of imposing rates, the County may adopt one or more of the following forms of rating—

Forms of rating.

- (a) an area rate in accordance with the First Schedule;
- (b) an agricultural land value rate in accordance with Second Schedule;
- (c) a site value rate or an improvement rate in accordance with the Third Schedule.

17. (1) Rates may be imposed by the County Finance Act or by such other Act as the county assembly determines.

Imposition of rates.

(2) Where the rate is not imposed by the annual County Finance Act, the rates applicable the previous year shall be deemed to be applicable as provided for in section 18 below.

(3) Without limiting subsection (1), a rate may be imposed using the form of wording set out in Fourth Schedule.

18. (1) The County Executive Committee may impose rates on rateable property in the County for any calendar year.

Calendar year

19. (1) If rates are not imposed for a particular calendar year, then the amount of the rates for a particular rateable property for that calendar year are deemed to be the amount of the rates for that rateable property that were imposed for the immediately preceding calendar year.

Deemed amount of rates.

20. (1) A rate becomes due on 1st January of that calendar year; and

Payment of rates.

(2) For the purposes of the Act, the valuation roll or any supplementary valuation roll in force on the day on which any

rate becomes payable is conclusive evidence of all matters included in such roll.

21. (1) The rateable owner of any land at the date when a rate imposed on that land becomes payable is liable for payment of the amount of the rate. Liability for payment of rates.

(2) If the owners of the land are joint registered owners or tenants in common, they are jointly and severally liable for the payment of the rate.

(3) If the rateable owner of the land is absent from Kenya, any person receiving the rent or being in charge or control of the land is liable for the payment of the rate.

22. (1) Rates shall be paid to the County Receiver of Revenue or any other person authorised by the Kwale County Revenue Administration Act to collect revenue on behalf of the Receiver of Revenue. Collection of rates.

(2) Rates are payable—

- (a) by electronic transfer of funds or such other ways as are approved by the county receiver of revenue;
- (b) by depositing in a bank account notified and approved by the Kwale County Receiver of revenue; or
- (c) at the County Treasury or at any other place as is determined by county receiver of revenue.

(3) Ratepayers to notify the County Receiver of Revenue within 14 days once payment is rendered.

(4) The County Receiver of Revenue shall issue a receipt for the payment of any rates to the person who paid the rates.

23. (1) The County Executive Committee member shall in every calendar year gazette unpaid contribution in lieu of rates for land owned by National government entities. Contribution in lieu of rates

(2) The notice in (1) shall serve as a demand of the amount to be paid by National government for outstanding rates for the year.

24. The County Executive Committee Member may charge penalties at a rate determined by the County Assembly on any amount of a rate remaining unpaid after the day on which the rate became payable. Penalty for late payment of rates.

25. Subject to the provisions of the Kwale County Revenue Administration Act, the County Executive Committee member for Finance may waive rates payable by any person or may waive interest accruing from an unpaid amount

Waiver of Rates
and Interest

26. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rate or part of the rate, as the case may be, and any interest on any such unpaid rate or part as provided for in section 12, is recoverable in a court of competent jurisdiction as a civil debt due and owing to the County Government of Kwale from the person liable for payment of the rate.

Recovery of rates.

(2) The County Receiver of Revenue is authorised to sue for and recover the debt for the County Government of Kwale.

(3) A certificate signed by the county receiver of revenue and certifying that—

- (a) an amount of rates is or was due and payable on or before a certain date; and
- (b) the amount or a part of the amount has not been paid on or before that date,

is admissible as evidence against the defendant in proceedings under this section, and is prima facie evidence as to the matters certified.

27. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the County Executive Committee Member may serve a written notice under subsection (2) upon any person paying rent to the owner of the land in respect of which such rate was imposed.

Recovery of rates
from persons
paying rent.

(2) The written notice—

- (a) is to state the amount of such arrears, which may include interest calculated in accordance with this Act; and
- (b) is to state that all future payments of rent (whether already accrued due or not) by the person paying the rent are to be made directly to the County receiver until such arrears and interest have been paid in full.

(3) The notice operates for all purposes to transfer to the County the right to recover, receive and give a discharge for such rent.

28. (1) Any rate due, together with interest calculated in accordance with this Act, is a charge against the land on which the rate was imposed. Rates chargeable on property.

(2) If the title to such land is registered under any law relating to the registration of title to land, the County Executive Committee Member may deliver a notification of such charge, in the prescribed form, to the registrar who shall register it against the title to that land and the charge takes priority in accordance with such law.

29. The County Executive Committee Member may, upon payment of the prescribed fee by any person, issue to that person a statement of the current status of the payment of rates for that land. Statement of payment of rates and other charges

30. Documents are to be published, sent or served for the purposes of this Act in accordance with the requirements of section 16 of the County Revenue Administration Act 2018. Publication service and of documents.

31. The County Executive Member may appoint one or more county public officers within the meaning of the County Governments Act, 2012 or other persons to value land for the purposes of preparing a valuation roll or supplementary valuation roll under the Valuation for Rating Act. Valuer

PART III—RATING INFORMATION DATABASE AND RATES RECORDS

32. (1) The County shall keep and maintain an updated rating information GIS database with print backup. Rating information database.

(2) The purpose of the database is—

- (a) to record all information required for setting and assessing rates;
- (b) to enable the County to communicate to and with ratepayers; and
- (c) to enable members of the public to have reasonable access to the information in the database relating to the calculation of liability for rates.

(3) The database shall include, in relation to each rating within the County—

- (a) all information that is included in the County valuation roll for the County; and

- (b) all information that belongs to setting a general rate in;
- (c) information that determines the category (if any) to which belongs for setting a targeted rate; or
- (d) information on the calculated amount of liability for a targeted rate under this Act
- (e) up to date cadastre

(4) The information required in subsection (4) may be recorded separately for different parts of a rating if separate records are necessary because of different rating treatment of each part resulting from:

- (a) the inclusion of different parts in different categories under subsection (4) (b) (i) or (ii):
- (b) the application of Part 1 or Part 2 of Schedule 1 to one or more parts of the rating :
- (c) the application of a remission policy, a postponement policy, or a rates relief policy for freehold land to one or more parts of the rating area.

(5) The rating information database shall be maintained so that it may be searched according to—

- (a) the reference number of the area;
- (b) the address of the area; or
- (c) any other search reference that is set out in any written law.

(6) The rating information database shall not be used to confirm ownership of a particular of property.

(7) Payment of rates is not evidence of ownership of the property being paid for.

33. (1) The rating information database shall be available for inspection—

Inspection of
rating information
database.

- (a) at the County public office and any other place that the County Executive Committee Member considers necessary in order to provide reasonable access to all ratepayers and residents of the County; and

- (b) during ordinary office hours or at a place that is open to the public, or
- (c) all times online

(2) The copy of the rating information database that is made available for inspection shall not include the name of any person, unless it is necessary to identify the rating area or any address other than the street address of the rating area.

(3) No fee is payable for inspecting the rating information database, but a person may be charged a reasonable fee for being supplied with a copy of the particulars.

(4) The County shall, during the month of June, give public notice that the rating information database is available for inspection and of the place and times it may be inspected.

(5) In addition to the notice required under subsection (4), the County shall notify ratepayers at any other time it considers appropriate and by any means it thinks fit.

34. (1) For the purpose of inspecting any information in relation to a particular rating area, a copy of the County's complete rating information database shall be—

Inspection of
complete rating
information
database.

- (a) available to any person—
 - (i) at the County office; and
 - (ii) during office hours.
- (b) accessible to the person —
 - (i) accessing the database by himself or herself; or
 - (ii) requesting the Rating Authority to provide the information.

(2) The rating information database made available under subsection (1) shall include, for each rating area in the County, all the information that the County holds in its rating information database in relation to that rating area, including—

- (a) the name of the owner of the rating area;
- (b) the postal address of the owner of the rating area;
- (c) physical address;
- (d) mobile number; and
- (e) electronic mail address.

(3) The County may make the database or any part of it available at any other office of the County, but only in the same manner as it is accessible by people at the County office.

(4) No fee is payable for inspecting any database made available under this section, but a person may be charged a reasonable fee for being supplied with a copy of the particulars.

(5) For the avoidance of doubt, a person may make, at the same inspection of the database, a series of requests about particular rating areas, as long as the requests are—

- (a) related; and
- (b) for purposes other than for the bulk collection of the names or postal addresses (or both) of people included in the database.

35. The County through the Rating Authority —

- (a) shall, by written notice, inform every owner included in its rating information database, annually, that he or she has the right under the Act to request the Rating Authority to withhold his or her name, and all other personal information from the database; and
- (b) may give the written notice in conjunction with any other rates information the Rating Authority is required to provide.

County shall inform owners of right to withhold certain information from database.

36. (1) An owner whose particulars are included on the database may request the County to withhold his or her name or personal information from the database.

Owner entered on database may require County to withhold information from database.

(2) An owner who makes a request under subsection (1)—

- (a) shall make the request in writing; but
- (b) is required to provide reasons for the request.

(3) On receipt of a request, the County shall, as soon as practicable,—

- (a) remove the relevant particulars from the database; and

(b) notify the owner who made the request of the removal of his or her particulars.

(4) An owner whose particulars have been removed from the database may, by written notice, revoke the request.

(5) The County shall then, as soon as practicable, restore those particulars to the database.

(6) All requests should be submitted by the 1st of April every calendar year

37. (1) The owner of a rating area who has made a statutory declaration, or provided a certified copy of the certificate of title shall notify the County Executive Committee Member if—

Notification of
surrender or
termination of
lease or licence.

(a) the lease in relation to which the declaration has been made, or certificate of title applies, has been surrendered or terminated; or

(b) an opportunity to renegotiate the rent or other payments has occurred.

(2) A person who is a ratepayer under section 11(2) may notify the County Executive Committee Member, by means of a statutory declaration, of the matters set out in subsection (1).

(3) Notice given under subsection (1) or subsection (2) is, unless the contrary is proved, sufficient evidence that the owner of the rating area shall be named as the ratepayer for that area in the rating information database and the County valuation roll.

38. (1) The County shall make available for inspection its first database before 31st December, 2019.

Availability of
database

(2) For the purposes of this section, the County shall inform every owner included in its rating information database of the right of the owner to request the withholding of his or her personal information from the database.

(3) The notice under subsection (2) shall be—

(a) in writing;

(b) made before 31st October, 2019; and

(c) made in conjunction with any other rates information in urban areas.

39. (1) A person who is named in the rating information database as a ratepayer may object to the information contained in the database on one or more of the following grounds—

Objections.

- (a) that a rating area included in the County valuation roll has been omitted from the database;
- (b) that information included in the County valuation roll has been omitted from, or inaccurately entered in the database;
- (c) that information included in the database, other than information entered from the County valuation roll, is incorrect;
- (d) that there has been a failure to enter a lawful amendment to the County valuation roll into the database.

(2) Objections shall be lodged with the Rating Authority or in such other manner as the County Executive Committee Member may by Notice in the *Gazette* direct.

(3) The Rating Authority shall notify the objector in writing of its decision on an objection and, if the objection is upheld,—

- (a) correct the entry in the rating information database; and
- (b) advise the ratepayer that the correction has been made.

(4) For the avoidance of doubt, a person may not object under this section to the correctness or otherwise of any information contained in the database that relates to an objection to the valuation of a rating area under the Rating Valuations Act.

(5) Any person who makes a false change or provides false information that causes a correction/change of the information in the database shall be liable to community service not exceeding 6months or a fine not exceeding KSh. 200,000 or both.

40. (1) If an owner of a rating area sells or otherwise transfers the area, or any part of the area, the owner shall notify the county of the sale or transfer within 1 month after the effective date of the sale or transfer.

Notification of
change of
ownership of
rating area.

(2) Notice under subsection (1) shall include—

(a) the full name and address of the purchaser or transferee; and

(b) in the case of a sale, the sale price.

(3) If a person becomes the owner of a rating area by the operation of law (including the creation of a joint family home), the person shall, within 1 month after the registration of the instrument under which the person became the owner, or one of the owners of the area, notify the Rating Authority of the following matters—

(a) that he or she is the owner of the rating area:

(b) his or her full name and address.

(4) If a solicitor or other authorized agent acted on behalf of the owner under subsection (1) or the person registering the instrument under subsection (3), the solicitor or agent shall give the notice concerned.

(5) Any application for registration of a transfer or lease of property within the county shall be accompanied by a rates clearance certificate issued by the County which certificate shall be conclusive proof that the property owner has fully paid the rates up to the date of such sale, transfer or registrable lease except—

(a) where the certificate is obtained by fraudulent means or through corrupt means;

(b) where the certificate is obtained in an unlawful manner.

(6) Notwithstanding the above, the county land registrar shall submit to the County Executive member within 14 days at the end of each quarter all alterations in respect of land information in the rating area.

41. (1) If any person who is a ratepayer transfers or assigns the lease or license referred to in that section, the person shall notify the Rating Authority of the transfer or assignment within 1 month after the effective date of the transfer or assignment.

Notification of
transfer or
assignment of
lease or license.

(2) Once the rating authority receives the notice under subsection (1), he/she shall update the rating information database accordingly.

42. Notice given under sections 28 to 33 does not release any person from liability for any rates that are due before the notice is given. Effect of notice on liability for rates.

43. (1) A person whose name is entered in the rating information database as a ratepayer in respect of a rating area shall notify the relevant County authority of change of his or her particulars if— Notification of change of name.

(a) the entry relates to a rating area that is entered in the land transfer register; and

(b) the person has registered his or her change of name in that register.

(2) A person to whom subsection (1) applies shall notify the relevant County authority within one month of the registration of those particulars in the land transfer register, and the rating information database shall be updated accordingly.

(3) A person who does not provide the information within the stated period shall be liable to pay a fine of KSh. 50,000.

PART IV — ASSESSMENT, PAYMENT, AND RECOVERY OF RATES AND REMISSION AND POSTPONEMENT

44. (1) Rates shall be assessed in accordance with either— Rates shall be assessed in accordance with values and factors.

(a) a rating area and its rateable values that are set out in the rating information database; or

(b) the factors relevant to a rating area that are set out in the rating information database; or

(c) in the case of a targeted rate under section 19, the rating area during the period specified in the resolution setting that rate.

(2) For the purpose of subsection (1) (a) and (b), the relevant rating area, values, or factors are those that have been corrected as at the end of the calendar year for which the rates are set.

(3) The rates are not affected by a change in the rateable value or factors of a rating area during the year in which the rates are set.

45. (1) The Rating Authority shall deliver a rates assessment to a ratepayer to give notice of the ratepayer's liability for rates on a rating area.

Notice of rates
assessment.

(2) A ratepayer is liable for rates on a rating area when the Rating Authority delivers the rates assessment for that area to the ratepayer.

46. (1) A rates assessment shall clearly identify all of the following—

Contents of rates
assessment.

- (a) the name and address of the County;
- (b) the name and address of the ratepayer;
- (c) the number on the County valuation roll of the rating area;
- (d) the legal description and location of the rating area;
- (e) the rateable value of the rating area;
- (f) the amount and a description of each rate;
- (g) the activities or groups of activities of the urban that will be funded from each rate;
- (h) the relevant matters in Schedule 2 that are required to determine—
 - (i) the category (if any) to which the rating area belongs for the purposes of setting general rates.
 - (ii) the category (if any) to which the area belongs for the purposes of setting a targeted rate:
 - (iii) information on the factors used to calculate the amount of the liability of a rating area in respect of each targeted rate:
- (i) the year for which the rates are payable;
- (j) the total amount of rates payable on the rating area for the year;
- (k) the methods by which rates may be paid and the date or, if the rates are payable by installments, the dates by which specified amounts shall be paid;
- (l) if applicable,—
 - (i) the penalty applicable; and
 - (ii) a warning that, if rates are not paid on time, a penalty may be added under that regime;

- (m) if an early payment of rates has been made in accordance with this Act or any other written law;
- (n) the rates paid and any balance remaining to be paid; and the amount of any discount allowed for the early payment of the rates;
- (o) any credit balance remaining after payment of all rates due, adjusted for any discount allowed;
- (p) the right of ratepayers to—
 - (i) inspect the rating information database and rates records; and
 - (ii) object to any of the information included in the rating information database and rates records.

(2) If the ratepayer has elected to make a lump sum contribution to an urban's capital project, the rates assessment shall also identify the targeted rates for the year for which, as a result of the election, no liability attaches to the rating area.

(3) A rates assessment may include any other information that the Rating Authority deems fit.

(4) A rates assessment may be in two or more parts to identify the different treatment, for rating purposes, of different parts of a rating area.

(5) If subsection (4) applies,—

- (a) the information required under subsection (1) shall be given for each part of the assessment as if each part were a separate assessment; and
- (b) each part shall state that it is part of the rates assessment for the rating area and identify the number of other parts that are included in the assessment.

47. (1) If a rates payment is due for a particular period, ^{Rates invoice.} the Rating authority shall deliver to the ratepayer a rates invoice for the rating area for that period.

(2) A rates invoice shall clearly identify all of the following—

- (a) the name and address of the urban ;
- (b) the name and address of the ratepayer;

- (c) the legal description and location of the rating area: the total amount of rates payable for the year for the rating area;
 - (d) the amount of rates that have been paid to date for the year;
 - (e) the amount payable on the current rates invoice;
 - (f) the date on which the payment is due on the current rates invoice;
 - (g) where the rates may be paid;
 - (h) the penalty (in case there is any) including,—
 - (i) a warning that, if the rates are not paid on time, a penalty may be added; and
 - (ii) if a penalty has been added in the current year, the amount of the penalty on any unpaid rates for the rating area;
 - (iii) the amount of any unpaid rates owing from a previous year for the rating area.
- (3) A rates invoice may include any other information that the Rating Authority deems fit.
- (4) The Rating Authority may deliver a separate rates invoice for any targeted rate in accordance with subsection (1).
- (5) A rates invoice delivered under subsection (4) shall—
- (a) set out the matters required by subsection (2); and
 - (b) specify the rate covered by the invoice; and
 - (c) if the invoice covers a rate set under section 43 (1) (c), the invoice shall specify the basis of that assessment and the period for which the assessment applies.

48. (1) Rates are payable at—

Payment of rates.

- (a) any place designated by the Receiver of Revenue as a County designated office; and
- (b) any other place publicly notified or specified on the rates invoice as a place of payment.

(2) Rates may be paid by any method provided for under section 22 of this Act

49. (1) Except as otherwise provided for in this Act, the Receiver of Revenue may appoint a collector to collect rates for the County. Appointment of a collector.

(2) The County may partner with a person or a company or appoint any person or authority to collect the rates they assess on its behalf

(3) A person appointed or who partners with the County under this section shall deliver to the Receiver of Revenue all moneys collected under this Act as soon as practically reasonable but not later than 3 days after collection of rates.

50. (1) Despite the other provisions of this Act, if the rates payable on a rating area in a year are, in the opinion of the County Executive Committee, uneconomic to collect, it may decide not to collect them. Power not to collect small amounts.

(2) If a county decides, under subsection (1), not to collect the rates,—

(a) the ratepayer of the rating area is not liable to pay the rates; and

(b) no penalties may be added to the unpaid rates.

(3) If subsection (1) applies, the County —

(a) shall notify the ratepayer that the county has decided not to collect the rates; and

(b) may, if a rates assessment for that rating area has not been delivered,—

(i) include the notice under paragraph (a) with the rates assessment; or

(ii) omit to deliver the rates assessment.

51. (1) The County may adopt a policy for the payment of some or all rates that are identified in the rates assessment before the due date or dates for those rates in the current year. Policy for early payment of rates.

(2) A policy adopted under subsection (1)—

(a) shall be adopted using a consultative procedure; and

(b) may be included in the long-term plan.

(3) A policy adopted under this section may provide for the county to discount the amount of the rates if payment is made by a specified date before the due date or dates.

52. (1) The County may adopt a policy for the payment of rates in anticipation of rates for subsequent year(s). Policy for payment of rates for subsequent year.

(2) A policy of the kind referred to in subsection (1) may provide for either or both of the following circumstances—

(a) any sum may be paid in a year in anticipation of a liability for general rates in subsequent years:

(b) any sum may be paid in a year in anticipation of a liability for 1 or more targeted rates, or for targeted rates for 1 or more specified activities or groups of activities, in subsequent years.

(3) If rates are paid in accordance with a policy adopted under subsection (1), the Rating Authority shall credit the payment in accordance with the policy and the instructions, if any, of the person making the payment.

(4) Section 51(2) and (3) applies, with the necessary modifications, to a policy adopted under this section.

(5) To avoid doubt, payments made under this section shall be credited against future rates, whether or not the policy under which the payment was made is still in force when the rates are assessed.

(6) If applied to a leasehold, payments must be paid within the lease period.

53. (1) The County may, authorize penalties to be added to rates that are not paid by the due date. Penalties on unpaid rates.

(2) A resolution made under subsection (1) shall—

(a) be made not later than the date when the Rating Authority sets the rates for the year; and

(b) state—

(i) how the penalty is calculated; and

(ii) the date that the penalty is to be added to the amount of the unpaid rates.

(3) A penalty shall not exceed 10% of the amount of the unpaid rates on the date when the penalty is added.

54. (1) The county may impose the following types of Imposition of penalty penalty—

- (a) a penalty on rates assessed in the year that are unpaid after the due date for payment (or after a later date if so specified);
- (b) a further penalty on rates assessed in any year that are unpaid on whichever day is the later of—
 - (i) the first day of the year; or
 - (ii) 5 working days after the date;
- (c) a further penalty on rates to which a penalty has been added under paragraph (b), if the rates are unpaid 6 months after that penalty was added.

(2) The amount of unpaid rates to which a penalty may be added includes—

- (a) a penalty previously added to unpaid rates under this section;
- (b) additional charges added to unpaid rates under this Act; or
- (c) rates levied under the Rating Powers Act 1988 that re- main unpaid.

55. (1) If an owner defaults in paying the rates, the Recovery of rates if owner in default. County may—

- (a) notify persons with an interest in the rating area for which the rates are payable (including an interest as first mortgagee) of—
 - (i) the fact of the default;
 - (ii) the provisions of this section; and
- (b) accept payment of the rates from the persons referred to in paragraph (a); or
- (c) recover, as a debt from the first mortgagee of a rating area, the rates payable in respect of the rating area that remain unpaid on a date that is—
 - (i) not less than 3 months after notice has been given to that person under paragraph (a); and

(ii) not earlier than 1 November in the year following the year in which the rates were first assessed.

(2) A person (other than a mortgagee) who pays the unpaid rates under subsection (1) may—

(a) recover that amount from the owner as a debt; or

(b) retain that amount from any money that that person pays to the owner in respect of a debt other than that relating to unpaid rates.

(3) If a mortgagee pays the unpaid rates under subsection (1), the amount paid shall be treated as part of the money secured by the mortgage until it is repaid to the mortgagee, and the provisions of the mortgage apply to that amount.

(4) This section does not affect any agreement between persons about their liability as between themselves to pay the rates for a rating area.

56. (1) The Rating Authority may commence proceedings on behalf of the county in a court of competent jurisdiction to recover as a debt rates unpaid for 4 months after the due date for payment. Proceedings to recover rates.

(2) In any proceedings under subsection (1), the Rating Authority may recover any other unpaid rates in respect of the same rating area if the rates became due not earlier than 1 month before the proceedings were commenced.

57. Service of summons to appear before a court of competent jurisdiction shall be served in accordance with the relevant civil procedure laws. Service of summons.

58. (1) An action to recover unpaid rates shall not be commenced in a court of competent jurisdiction later than 6 years after— Limitation of time for recovery of rates.

(a) the date on which the rates became due if the County required the rates to be paid in 1 payment in a financial year; or

(b) the date on which the last payment became due if the required rates to be paid in a number of payments in a financial year.

(2) If the County postpones the requirement to pay rates in whole or in part and the postponed rates are not

subsequently written off, an action to recover unpaid postponed rates shall not be commenced in a court of competent jurisdiction later than 6 years after the date or event to which the rates were postponed.

(3) This section applies to rates set and assessed under this Act .

59. (1) If payment is not made to satisfy a judgment for rates (including any costs, interest, and disbursements) within 3 months after the date of the judgment, the County may apply, in accordance with subsection (2), to a court of competent jurisdiction to have the judgment enforced by sale or lease of the rating area or by any other means allowed by law.

Enforcement of
judgment.

(2) The County shall forward to the Court—

(a) a certificate, signed and dated by the Rating Authority , stating—

- (i) the date of the judgment:
- (ii) the amount of the judgment given against the ratepayer or other person:
- (iii) the name of the ratepayer or other person:
- (iv) the address of the rating area that is subject to the judgment and its legal description and location; and

(v) A copy of the judgment and order

(3) Subsection (1) does not apply to land that is subject to enactments that prohibit the alienation or transfer of that land.

(4) However, despite those enactments, the county may—

- (a) offer that land, or part of it, for lease under this section on terms that produce a yearly rent equivalent to the amount of rates payable on the whole of the land, together with 5% of rates added for the recovery of expenses; or
- (b) if the ratepayer has an estate or interest in other land that is not subject to an enactment of the kind referred to in subsection (3), register a charging order on, and transfer the power to sell, that other

land, or part of it, to produce the amount required to recover the unpaid rates, together with 5% added for the recovery of expenses.

PART V—MISCELLANEOUS

60. (1) The County Executive Member may make regulations generally for the better carrying out of the provisions and purposes of this Act and different rules may be made in respect of different forms of rating or different ratings. Power to make Regulations.

(2) Without limiting subsection (1), rules may be made for the following purposes—

- (a) the collecting of rates;
- (b) prescribing cases in which rates may be reduced or remitted;
- (c) exempting any person or class of persons from the payment of rates or with respect to specified classes or cases;
- (d) prescribing the cases or circumstances in which the County Executive Committee Member is to or may grant exemption from the payment of rates or of any rate or class of rates and the persons and classes of persons who may be exempted;
- (e) prescribing the extent to which any land is to be exempted from the payment of rates; or
- (f) prescribing fees.

61. (1) If, immediately before the coming into operation of this Act, there is in force under any law a form or method of rating in respect of the county which the county assembly is empowered to adopt under this Act or any other written law, that form or method of rating continues to apply in respect of that as if adopted by the county assembly of Kwale, subject to such modifications (if any) as may be necessary to bring such form or method of rating into conformity with the provisions and requirements of this Act and any rules made under this Act. Savings.

(2) Any rules, in force immediately before the coming into operation of this Act, that apply to any form or method of rating which is continued under subsection (1) are deemed to have been made under section 19 and are, except to the extent of any inconsistency with the provisions or requirements of this

Act, to continue in force in respect of such form or method of rating until rules are made under this Act to replace them.

(3) Any rules, in force immediately before the coming into operation of this Act, that exempt any charitable institution from the payment of rates in respect of any property in the county are deemed to have been made under section 24 and are, except to the extent of any inconsistency with the provisions or requirements of this Act, to continue in force until rules are made under this Act to replace them.

(4) A valuation roll or supplementary valuation roll that, but for the operation of the Valuation for Rating Act, would have been in force immediately before the coming into operation of this Act in respect of the county, is deemed to be in force for the purposes of this Act.

First Schedule— Rate Section 4 (1) (a)

1. An area rate is imposed on an area of land, and the County Assembly may adopt one or more of the following methods of rating: Rate.

- (a) a flat rate of a minimum 2% as a percentage of the value of land;
- (b) a differential flat rate or a differential graduated rate upon the of land according to the use to which the land is put, or capable of being put, or for which it is reserved;
- (c) an industrial rate of a minimum 5% upon the of land used for other than agricultural or residential purposes;
- (d) a residential rate upon the land used for residential purposes;
- (e) such other method of rating upon the of land or buildings or other immovable property as the county assembly may approve; and

Second Schedule—Agricultural rental value rate Section 5 (1) (b)

1. An agricultural rate imposed on the annual value of agricultural land. Agricultural rental value rate.

2. Agricultural land is land used for agriculture pursuant to Section 2 of the Agriculture, Fisheries and Food Authority Act Definitions.

***Third Schedule—A site value rate or an improvement rate
(Section 5 (1) (c))***

1. A site value rate is a rate imposed on the value of ^{Site value rate.} unimproved land as appearing in a valuation roll or supplementary valuation roll.
2. An improvement rate is a site value rate in combination ^{Improvement rate.} with a rate on the assessment for improvement rate as appearing in a valuation roll or supplementary valuation roll.
3. If a site value rate or an improvement rate is adopted, ^{Application of} the Valuation for Rating Act (Cap 266) including relevant ^{Valuation for Rating Act.} definitions applies to the form of rating so adopted.

Fourth Schedule—Wording to impose a rate Section 5

1. A rate is imposed on all rateable property in the county ^{Imposition of rate.} for the calendar year starting on 1 January 2020 and the amount of the rate is 2% per cent of the unimproved value of the rateable property.

MEMORANDUM OF OBJECTS AND REASONS

This Bill provides for the imposition of rates on land and buildings in Kwale County and for connected purposes

Part I (clauses 1-5) provides for preliminary provisions. This part contains the following; short title, application of the Act, application to the Government, purpose of the Act and Interpretation.

Part II (Clauses 6-30) provides for the forms of rating, rateable value of land, uniform annual general charge, rating units in common ownership, imposition of rates, calendar/financial year, deemed amount of rates, default of payment rates.

This part also provides for, liability for payment of rates, collection of rates, discount for early payment of rates, penalty payable on late payment of rates, recovery of rates, recovery rates from persons paying rent, rates chargeable on property, statement of payment of rates and other charges, publication and service of documents and valuer.

Part III (clauses 24-33) on rating information database and rate records. The part provides for rating information database, inspection of complete rating information database, county shall inform owners of right to withhold certain information from database, transitional provision, objections, notification of change of ownership of rating area, notification of surrender or termination of lease or license, notification of transfer or assignment of lease or license, effect of notice on liability for rates.

Part IV (clauses 34-49) on assessment, payment and recovery of rates and remission and postponement. This part outlines the rates to be assessed in accordance with values and factors, notice of rates assessment, contents of rates assessment, rates invoice, payment of rates and appointment of a collector. Other provisions are power not to collect small amounts, policy for early payment of rates in current financial year, policy for payment of rates for subsequent financial year, penalties on unpaid rates, imposition of penalty, recovery of rates if owner is in default, proceedings to recover rates, service of summons, limitation of time for recovery of rates and enforcement of judgement.

Part V (clauses 50-51) provides for miscellaneous provisions. These are power to make regulations and savings.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided through the estimates.

CHIREMA KOMBO,
Chairperson, Finance, Budget and Appropriations Committee.