

SPECIAL ISSUE

Machakos County Gazette Supplement No. 14 (Bills No. 11)



REPUBLIC OF KENYA

**MACHAKOS COUNTY GAZETTE
SUPPLEMENT**

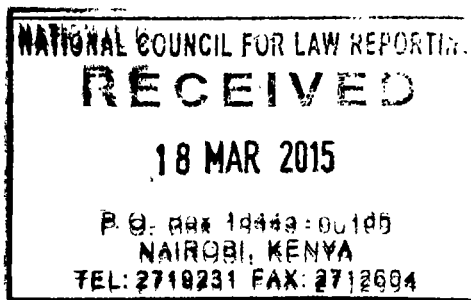
BILLS, 2014

NAIROBI, 17th October, 2014

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THE MACHAKOS COUNTY RATING BILL, 2014

A Bill for

AN ACT of the County Assembly of the Machakos County Assembly to provide for the imposition of rates on land and buildings in the County and for connected purposes

ENACTED by the County Assembly of the Machakos as follows—

1. (1) This Act may be cited as the Machakos County Rating Act, 2014.

Short title and commencement.

(2) This Act shall come into operation on such date as the County executive member may by notice in the gazette appoint..

2. In this Act, unless the context otherwise require:

Interpretation.

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

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

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

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

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

“rate” means a rate imposed by this Act;

“rateable owner” has the meaning assigned to it by section 7 of the Valuation for Rating Act (CAP 266);

“rateable property” has the same meaning as in the Valuation for Rating Act (Cap 266);

“rating area” means an area in the county for which:

- (a) A form or method of rating is or may be adopted; or

- (b) A rate is or may be imposed;

“rating authority” means the county government;

“receiver of revenue” has the same meaning assigned to

it under the Machakos County Revenue Administration 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 (Cap 266);

“valuation roll” means any valuation roll prepared under the valuation for Rating Act (Cap 266);

“year” means a prescribed period of 12 months starting on first January or such other prescribed date.

3. This Act applies to all rateable property in the County. Application of the Act.

4. (1) The forms of rating are— Forms of rating.

- (a) an area rate as provided for in schedule 1; and
- (b) an agricultural rental value rate as provided for in schedule 2; and
- (c) a site value rate and an improvement as provided for in schedule 3.

(2) One or more forms of rating shall be adopted for the purposes of imposing a rate under section 5.

5. (1) A rate is imposed in respect of each year on all rateable property in the county. Imposition of rates.

(2) Subject to subsection (3), the form of rating adopted for the purposes of imposing the rate under sub-section (1) is a site value rate.

(3) The county assembly may in the County Finance Bill adopt one or more of the other forms of rating referred to in section 4.

(4) Different forms of rating may be adopted for different rating areas.

6. (1) The amount of a rate that is to be determined each year by the county assembly in the County Finance Bill. Amount of rates payable.

(2) Without limiting subsection (1), the wording set out in Schedule 4 may be used by the county assembly to determine the amount of a rate that is payable.

7. If the County Assembly does not determine the amount of a rate payable for a particular year, then the amount of the rate payable for that year is deemed to be the amount of the rate that was payable for the immediately preceding year

Deemed amount of rate payable.

8. (1) A rate becomes due on 1st January or such other prescribed date of each year.

When do rates become due and payable?

(2) The rating authority shall by notice in the county Gazette specify the date on which a rate becomes payable and may publish that date in a newspaper circulating in the County.

(3) Notice of at least thirty days shall be given of the payment date published under subsection (2).

(4) For the purposes this 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.

9. (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

10. (1) Rates shall be paid to the receiver of revenue or any other person authorized by the rating authority to collect rates.

Collection of rates.

(2) Rates are payable:

- (a) by an electronic transfer of funds or such other ways approved by the receiver of revenue; or
- (b) at the offices of the rating authority or at any other place approved by the receiver of revenue.

(3) The receiver of revenue shall issue a receipt of the payment of any rates to the person who paid the rates.

11. The rating authority may allow a discount as determined by the country assembly in the County Finance

Discount for early payment of rates.

Bill on any rate paid on or before the day on which the rate becomes payable

12. The rating authority may charge interest as determined by the Country assembly in the Country Finance Bill on any amount of a rate remaining unpaid after the day on which the rate became payable.

Penalty payable on late payment of rates.

13. (1) If any rate or any part remains unpaid after the day on which the rate became payable, the rate or part of the rate, as the case requires, 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 debt due and owing to the rating authority from the person liable for payment of the rate.

Recovery of rates.

(2) The receiver of revenue is authorized to sue for and recover the debt for the rating authority.

(3) A certificate signed by the 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.

14. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rating authority 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 section 12; 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 rating authority until such arrears and interest have been paid in full.

(3) The notice operates for all purposes to transfer to the

rating authority the right to recover, receive and give a discharge for such rent.

15. (1) Any rate due, together with interest calculated in accordance with section 12, 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 rating authority may deliver a notification of such charge, in the prescribed form, to the registrar who shall register it against the title to the land and the charge takes priority in accordance with such law.

16. The rating authority 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 an area of land.

Statement of payment of rates and other charges.

17. Documents are to be published, sent or served for the purposes of this Act in accordance with the requirement of section 16 of the Machakos County Revenue Administration Act, 2014.

Publication and service of documents.

18. The County Executive Committee Member responsible for lands 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 draft valuation roll or draft supplementary valuation roll under the Valuation for Rating Act (CAP 266).

Valuers.

19. (1) The County Executive Committee Member responsible for finance may make rules generally for the better carrying out of the provisions and the purposes of this Act.

Power to make rules.

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

- (a) the collection of rates;
- (b) the exemption, waiver or reduction of rates;
- (c) prescribing fees for services;
- (d) prescribing forms;
- (e) publication and service of notices and other documents.

(3) Different rules may be made in respect of different forms of rating or different rating areas

The Machakos County Rating Bill, 2014

20. (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 any area of the county which the county assembly is empowered to adopt under this Act, that form or method of rating is adopted by reference under this Act and continues to apply in respect to that area, 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.

FIRST SCHEDULE*S.4(1)(a)***AREA RATE****CLAUSE 1 — AREA RATE**

An area rate is a rate imposed on an area of land, and the county assembly may for an area rate adopt one more of the following methods of rating;

- (a) A flag rate upon the area of land;
- (b) A graduated rate upon the area of land;
- (c) A differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;
- (d) An industrial rate upon the area of land used for other than agricultural or residential purposes;
- (e) A residential rate upon the area of land used for residential purposes;
- (f) Such other method of rating upon the area of land or buildings or other immoveable property as the county assembly may approve;

And the county assembly may adopt different forms of rating for different rating areas.

SECOND SCHEDULE*S.4(1)(b)***AGRICULTURAL RENTAL VALUE RATE****CLAUSE 1 — AGRICULTURAL RENTAL VALUE RATE**

An agricultural rental value rate is a rate imposed on the annual value of agricultural land.

CLAUSE 2 — DEFINITIONS

In this Schedule,

“agricultural land” has the same meaning assigned to it by the Agricultural Act, and

“annual value”, in relation to an agricultural rental value rate, means;

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

- (b) In the case of any other land, the annual rent which might be reasonably have been reserved if such land had been held on a lease from the National Government for a time of 999 years commencing with the year 1960.

THIRD SCHEDULE

S.4(1)(c)

A SITE VALUE RATE OR AN IMPROVEMENT RATE

CLAUSE 1 — SITE VALUE RATE

A site value rate is a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation roll.

CLAUSE 2 — IMPROVEMENT RATE

An improvement rate is a site value rate in combination with a rate on the assessment for improvement as appearing in a valuation roll or supplementary valuation roll.

CLAUSE 3 — APPLICATION OF VALUATION FOR RATING ACT (CAP 266)

If a site value rate or an improvement rate is adopted, the Valuation for Rating Act (Cap 266) including relevant definitions applies to the form of rating so adopted.

FOURTH SCHEDULE

DETERMINING THE AMOUNT OF A RATE THAT IS PAYABLE

For the purposes of section 6 in the (County Name) County Rating Act (Year) , the amount of a rate payable in respect of a rateable property for (Year) is (Insert Percentage) percent of the unimproved value of the rateable property.

MEMORANDUM OF OBJECTS AND REASONS

Article 209(3) of the Constitution provides for the imposition of property rates by the county governments.

The Bill gives effect to that exclusive county taxing power by providing for the imposition and collection of property rates. The Bill relies on the property valuations in place under the National Valuation for Rating Act (Cap 266).

The structure of the Bill is as follows:

Part I (clauses 1–3) of the Bill contains preliminary provisions. These include the title of the Bill, its application and interpretation of terms as used in the bill.

Part II (clauses 4–18) of the Bill contains rating provisions. Clause 4 provides for forms of rating, clause 5 is on imposition of rates while clause 6 provides for amount of rates payable. Clause 7 is on deemed amount of rates payable and clause 8 defines when rates become due and payable. Clause 9 contains provision on liability for payment of rates as clause 10 is on collection of rates. Clause 11 provide for discount for early payment of rates while 12 is on penalty payable on late payment of rates. Clause 13 provide for recovery of Rates while clause 14 is on recovery of rates from persons paying rent. Clause 15 contains provision on rates chargeable on property as clause 16 is on statement of payment of rates and other charges. Clause 17 provide for publication and service of documents while clause 18 provide for valuers.

Part III (clauses 19–20)

Clause 19 deals with power of the County Executive Committee Member responsible for Finance to make rules for the better carrying out of the provisions and the purposes of this Act while clause 20 contain saving provisions.

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

Dated the 24th September, 2014.

SAMMY NDUVA,
Member of the County Assembly.