

SPECIAL ISSUE

NATIONAL COUNCIL FOR
COUNTY ASSEMBLIES FORUM (CAF)
LAW REPORTING
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MANDERA COUNTY GAZETTE SUPPLEMENT

BILLS, 2015

NAIROBI, 20th November, 2015

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SCHEDULES

THE MANDERA COUNTY RATING BILL, 2015**A Bill for**

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

AN ACT of the County Assembly of Mandera to provide for the imposition of rates on land and buildings in the county of XYZ, and for connected purposes

ENACTED by the County Assembly of Mandera as follows—

Short title and commencement

1. (1) This Act may be cited as the Mandera County Rating Transition Act, 2013.

(2) This Act comes into operation upon assent by the Governor of Mandera County.

Application of Act

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

(2) However, rates may be imposed only on rateable property.

Interpretation

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

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

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

“county revenue collector” has the meaning given by the Mandera County Revenue Administration Act, 2013;

“financial year” means a period of 12 months starting on 1st July;

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

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

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

“rate” means a rate imposed under this Act;

“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 area” means—

- (a) an area for which a form or method of rating is or may be adopted;
or
- (b) an area for which a rate is or may be imposed; “rating Authority” means the County Government;

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

“valuation roll” and “supplementary valuation roll” mean any valuation roll or supplementary valuation roll prepared under the Valuation for Rating Act.

Forms of rating

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

- (a) an area rate in accordance with Schedule One;
- (b) an agricultural rental value rate in accordance with Schedule Two;
- (c) a site value rate or an improvement rate in accordance with Schedule Three.

(2) The County Assembly may adopt different forms of rating for different rating areas.

How are rates imposed?

5. (1) Rates may be imposed by the Act providing for annual county finances or by such other Act as the County Assembly determines.

(2) Without limiting subsection (1), a rate may be imposed using the form of wording set out in Schedule 4.

Imposition of rates—calendar year or financial year

6. (1) The County Assembly may impose rates on all rateable property in the county for any calendar year or financial year.

(2) If rates imposed for calendar years are not imposed for a particular calendar year, then the rates for that calendar year are deemed to be the rates that were imposed for the immediately preceding calendar year.

(3) If rates imposed for financial years are not imposed for a particular financial year, then the rates for that financial year are deemed to be the rates that were imposed for the immediately preceding financial year.

Imposition of rates—change from calendar year to financial year

7. For the purpose of changing from a calendar year to a financial year for the imposition of rates, the County Assembly may impose rates on all rateable property in the county for a period starting on 1st January in a year and ending on 30th June in the same year.

When do rates become due and payable?

8. (1) A rate becomes due —

- (a) if the rate is imposed for a calendar year, on 1st January of that calendar year; and
- (b) if the rate is imposed for a financial year, on 1st July of that financial year; and
- (c) if the rate is imposed for a six month period under section 7, on 1st January being the first day of that six month period.

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

(3) 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.

Liability for payment of rates

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.

(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.

Collection of rates

10. (1) Rates must be paid to the county revenue collector or any other person authorised by the rating authority to collect rates.

(2) Rates are payable —

- (a) by electronic transfer of funds or such other ways as are approved by the county revenue collector; or
- (b) at the offices of the rating Authority or at any other place as is determined by county revenue collector.

(3) The county revenue collector must issue a receipt for the payment of any rates to the person who paid the rates.

Discount for early payment of rates

11. The rating authority may allow a discount as determined by the County Assembly on any rate paid in full on or before the day on which the rate becomes payable.

Penalty payable on late payment of rates

12. The rating authority may charge interest 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.

Recovery of rates

13. (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 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.

(2) The county revenue collector is authorised to sue for and recover the debt for the rating Authority.

(3) A certificate signed by the county revenue collector 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.

Recovery of rates from persons paying rent

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.

(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.

Rates chargeable on property

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.

(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 must register it against the title to that land and the charge takes priority in accordance with such law.

Statement of payment of rates and other charges

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.

Publication and service of documents

17. Documents are to be published, sent or served for the purposes of this Act in accordance with the requirements of section 16 of the XYZ County Revenue Administration Act, 2013.

Valuer

18. The County Executive 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.

Power to make rules

19. (1) The County Executive Member responsible for finance may make rules generally for the better carrying out of the provisions and purposes of this Act, and different rules may be made in respect of different forms of rating or different rating areas.

(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 rating Authority 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 area rates;
- (f) prescribing fees.

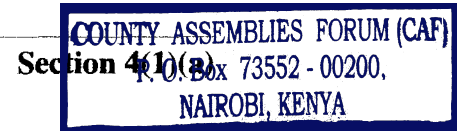
Savings

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 continues to apply in respect of that area as if adopted by the County Assembly, 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.

(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 area in the county 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 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 an area of the county, is deemed to be in force for the purposes of this Act.

FIRST SCHEDULE**Area rate**

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

- (a) a flat rate upon the area of land;
- (b) a graduated rate upon the area of land;
- (c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;
- (d) an industrial rate upon the area of land used for other than agricultural or residential purposes;
- (e) a residential rate upon the area of land used for residential purposes;
- (f) such other method of rating upon the area of land or buildings or other immovable property as the County Assembly may approve;

and the County Assembly may adopt different forms of rating for different rating areas.

SECOND SCHEDULE

COUNTY ASSEMBLIES FORUM (CAF)
Section 4(1)(b)
P. O. BOX 73332 - 00200,
NAIROBI, KENYA

Agricultural rental value rate

1. An agricultural rental value rate is a rate imposed on the annual value of agricultural land, being a rate to which the Valuation for Rating Act applies on being adopted.

Schedule 2 definitions

2. In this Schedule, “agricultural land” and “annual value” have the same meaning as in the Rating Act.

THIRD SCHEDULE

Section 4(1)(c)

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

Site value rate

1. A site value rate is a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation, being a valuation roll or supplementary valuation roll that does not include the value of land.

Improvement rate

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

Schedule 3 definitions

3. In this Schedule, “assessment for improvement rate”, “value of land” and “value of unimproved land” have the same meanings as in the Valuation for Rating Act.

FOURTH SCHEDULE



Imposition of rate

A rate is imposed on all rateable property in the county for the calendar year starting on 1st January, 20 [] and the amount of the rate is [X] per cent 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. This 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 Bill also provides for the legal framework for the rating process by the County Government.

PART I—(clauses 1-3) of the Bill deals with preliminary matters. These include the title of the Bill, interpretation of terms as used in the Bill. The part also sets out the purpose of the Bill which includes ensuring effective, efficient and transparent administration of imposing rating on land, ensuring equity and fairness on the rating process.

PART II—(clauses 4-5) of the Bill provides for administration framework. The part contains provisions for the functions of the department which is responsible for dealing with relevant matters related to land like imposing rates on rateable properties, determining the applicable method of area rating, general administration of the implementation of this Act among others. The part also sets out provisions for staff of the department.

PART III—(clauses 6-20) of the Bill provides for the rating process. It provides for the levying of rates, the forms of rating, the methods of area rating, the process of collecting the rate, payment of rates and among other provisions.

PART IV—(clauses 21-22) of the Bill contains the enforcement of the payment of rates and recovery of rates from tenants or occupiers.

PART V—(Clauses 23-24) clause 23 deals with power of the County Executive Committee Member responsible for land to make rules for the better carrying out of the provisions and purpose of this Act while clause 24 contain saving provisions.

Dated the 2nd September, 2015.

SAAD SHEIKH AHMED,
Land and Housing Chairperson, Committee.