

THE NATIONAL RATING BILL, 2021
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THE NATIONAL RATING BILL, 2021

A Bill for

AN ACT of Parliament to provide for the framework for imposition of rates on land and buildings by county governments; provide for the valuation of rateable property; provide for the appointment and powers of valuers; provide for the establishment, powers and functions of the National Rating Tribunal; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART 1— PRELIMINARY

Short title.

1. This Act may be cited as the National Rating Act, 2021 and shall come into force ninety days after publication.

Interpretation.

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

“annual rental value” means the amount of rental value arrived at based on the actual annual rent realisable on the rateable property or annual equivalent of comparable rents or annual rent paid on leased land or would otherwise be paid were the land to be leased in the open market;

“area rate” includes a flat rate, graduated rate or differential rate adopted by the rating authority for purposes of this Act;

“Cabinet Secretary” means the Cabinet Secretary for the time responsible for matters relating to land;

“Chief Government Valuer” means the Principal advisor to Government on valuation;

“Chief Officer” means the county chief officer for the time being in charge of land matters in the respective rating authority;

“County Executive committee member” means the county executive committee member responsible for matters relating to land in a county;

“contribution in lieu of rates” means the amount of rates payable to the rating authority by the National Government in respect of all public land that it holds within the rating authority’s area of jurisdiction;

“date of valuation” means the date appointed when the prepared valuation roll and supplementary roll shall come into force;

“discount” means any amount of property rates, deducted from what is required to be paid;

“exclusion” means public property to which imposition of rates and valuation for rating is exempted;

“exemption” in relation to rating, means specified land use that are not rateable by the rating authority under this Act;

“improvements”, in relation to land, means all work done or material used on, in or under a parcel of land by the expenditure of money or labour in so far as the effect of the work done or material used is to increase or decrease the value of the land, but does not include machinery, which is not fixed onto the land, or can be dismounted or removed from the land;

“improved site value” means the value of a vacant parcel of land including any improvements thereon;

“improvement value” means the residual amount found by deducting the value of the unimproved land from the market value of the land;

“Land” has the meaning assigned to it under Article 260 of the Constitution and in relation to rateable property includes improvements made, where applicable;

“market value” means the estimated amount for which a rateable property should exchange on the valuation date between a willing buyer and a willing seller in arm’s length transaction, after proper marketing and where the party had each acted knowledgably, prudently, and without compulsion and free from encumbrances;

“occupier” in relation to rateable property, means a person who is in physical possession of premises, or a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises;

“premises” means any lands and structure erected thereon;

“public land” has the meaning assigned to it under Article 62 of the Constitution;

“property rate” means the actual amount of money payable by a rateable owner as tax on their property based

on valuation roll and any other form of rating specified in this Act;

“rateable owner” means a person in whose name a particular property is registered and includes any of the persons specified under section 8;

“rateable property” means property on which a rating authority may in terms of section 7, levy a rate, and does not include property fully excluded and exempted from the levying of rates;

“rateable value” means the net value of the rateable property, if the property is sold or leased on the open market at the time of valuation;

“rate struck” means the percentage of tax rate levied on the assessed value or rateable value of property to be determined from time to time by the rating authority;

“rating area” means, any area declared as a rateable area under section;

“rating authority” means a county government;

“Registrar” has the meaning assigned to it under section 2 of the Land Registration Act;

No 3 of 2012.

“remission” means partial or total discharge of payment of rates due including interest and penalties;

“supplementary valuation rolls” means a roll prepared in accordance with section 31 (5);

“time of valuation” means a specific date on which the valuations would have been deemed to have been carried out during the preparation of the valuation roll or supplementary roll;

“Tribunal” means the National Rating Tribunal established under section 38;

“unimproved site value” means the value of vacant land excluding the value of any improvements;

“valuation roll” means a roll prepared in accordance with section 31;

Cap 532. “valuer” means a valuer registered and licensed to practice as a valuer in accordance with the Valuers Act;

“waiver” means total or partial discharge from paying the amount of interest and penalties due on property rate.

Objects of this Act.

3.(1) The objects of this Act are to —

- (a) give effect to Articles 190(1), 209 (3) (a) and other enabling provisions of the Constitution by providing —
 - (i) for a uniform legislative framework; and
 - (ii) mechanisms on how the rating authorities undertake valuation for rating and imposition of rates on rateable property;
- (b) enhance use of appropriate technology in undertaking valuation for rating and rating related purposes;
- (c) provide for the role of the Chief Government valuer in respect to collation of all valuation roll prepared and deposited by the rating authorities

Guiding Principles.

4. (1) The rating authorities shall, in implementing the provision of this Act—

- (a) adhere to the national values and principles of governance,
- (b) ensure conformity to the value and principles of public service, and,
- (c) conform to the principles of public finance in accordance with the Constitution.

(2) Without prejudice to the generality of subsection (1), the rating authorities shall—

(a) ensure that there is fair and equal treatment to all persons liable for rates;

(b) ensure that the burden of property rating is shared fairly;

(c) take cognizance of the need for rating authorities to promote imposition of rates to boost the social and economic development within their respective counties;

(d) effectively conduct public participation to engage the public on the importance of imposition rates and its impact towards delivery of services within the rating authority;

(a) determine criteria to be applied that is fair, objective, reasonable and just by—

(i) applying different forms of rating for different categories of properties;

(ii) identifying exemptions for certain uses of rateable properties from payment of rates;

(iii) specifying circumstances applicable when considering interest on defaulters, discount, remission and waiver; and

(iv) increasing rates tax bases.

(b) provide criteria for the determination of —

(i) categories of rateable properties for the purpose of levying of different rates; and

(ii) rateable property uses to be exempted;

(c) take into account the imposition of rates on specific certain group of persons within the rating authority and its effect;

(d) take into account the effect of tax rates on public property held on behalf by the National Government on all public rateable property within the respective rating authorities; and

(e) to be prudent and responsible when applying funds collected from the purposes of this Act for delivery services to the people.

Application.

5. (1) This Act shall apply to—

(a) all rateable property within the respective rating authority;

(b) all other rateable property except such property that are excluded or considered for exemption from imposition of rates;

Use of technology.

6. The rating authority shall identify or create or employ any other appropriate technological system for preparation and implementation of the roll.

PART 11— RATING

Duty to levy rates.

7. (1) A County government may levy rates through the relevant rating authority in their respective county only in accordance with this Act..

(2) Every relevant rating authority in a county shall ensure that revenue collected is used in adherence to the—

(a) principles of public finance set out in Chapter Twelve of the Constitution of Kenya;

(b) national values and principles set out in the Constitution; and

(c) fiscal responsibility principles provided for under section 107 of the Public Finance Management Act, 2012

No 17 of 2012.

Rateable
Owner.

8. (1) For the purposes of this Act, a rateable owner means –

(a) in relation to property in land, any person who holds whether freehold or leasehold where the unexpired residue of the term is not less than twenty-one years and there is an intention to confer ownership;

(b) in relation to an interest in the rateable property registered in favor of another, means the name of the person registered against that interest;

Cap 160.

(c) in case of succession, the executor, executrix or appointed administrator in accordance to the Law of Succession Act;

Cap 167.

Cap 168.

Cap 164.

(d) in the case of the trust property, the appointed and registered trustees including the public trustee in accordance to the Trustees Act, Trustees (Perpetual succession) Act, or Public Trustees Act;

No 18 of 2015.

(e) in case of bankruptcy or insolvency, the person appointed as administrator or liquidator in accordance with the Insolvency Act, 2015;

No. 21 of 2020

(f) in relation to Sectional Properties, a holder of a sectional property under the Sectional Properties Act, 2020;

(g) an occupier of the rateable property; or

(h) a beneficial owner who is receiving profits and rent from the rateable property;

(2) Every rateable owner shall —

(a) provide accurate, reliable and sufficient information on the rateable property for purposes of valuation upon request;

(b) promptly pay any rates that may fall due; and

(c) where rateable property is jointly owned, jointly and severally with the other registered proprietors be liable to pay rates when they fall due.

Forms
Rating. of

9. (1) Rates shall be levied by the rating authority in their respective county.

(2) The rating authority may, for the purposes of levying property rates, adopt the following forms of rating—

- (a) annual rental value rating;
- (b) area rating;
- (c) unimproved site value rating;
- (d) a site value rating in combination with an improvement rating.

(2) Where any one of the forms specified under paragraph (2) has been adopted in respect of any rating area, no other form of rating under this subsection shall, at the same time, be adopted in respect of that area.

(3) Each County Government shall ensure revenue collected is used in adherence to the—

- (a) principles of public finance set out in Chapter Twelve of the Constitution of Kenya;
- (b) national values and principles of governance set out in the Constitution; and fiscal responsibility principles provided for under section 107 of the Public Finance Management Act, 2012.

No 17 of 2012

Notice of
Rating.

10. (1) Every County Executive Committee Member shall, before a rating authority adopts any form of rating, invite comments from the public within the jurisdiction of the rating authority by way of notice of not less than sixty days.

(2) A notice under this section shall —

- (a) be published in the Gazette and at least two newspapers of wide national and county circulation;
- (b) be circulated through electronic media including widely and known local television, local radio broadcasting and road shows informing the public of the intended property rating process for determination of rates payable;
- (c) contain such information as—
 - (i) brief explanation of what property rating is;
 - (ii) the Commencement date;

- (iii) process to be undertaken during the exercise and the stages involved;
- (iv) who shall be conducting the exercise;
- (v) methods of rating to be adopted and areas to be rated; and
- (vi) avenues to raise objections or seek clarifications on rating and the procedure to be followed.

(3) A notice under this section shall be published in both English and Swahili languages and where appropriate, a local language.

Publication of rating area.

11. Where a rating authority adopts any form of rating for purposes of rating in a county, the County Executive Committee Member shall publish a notice in the gazette demarcating on a county spatial plan showing different forms of rating to be applied in different areas.

Annual rental value rating.

12. (1) The rating authority shall, when determining the value of the rateable property in respect of area rating, consider the annual rental value.

(2) Subject to subsection (1), the rating authority shall take into account the different categories of properties for purposes of payment of rates which shall include but not limited to —

- (a) residential properties;
- (b) commercial properties;
- (c) mineral lands that do not fall under industrial lands;
- (d) agricultural properties; and
- (e) any other category of properties identified in the enacted rating authority legislation.

(3) The Cabinet Secretary may in consultation with the National Land Commission prescribe guidelines on royalties' payable on natural resources, forestry land and its products for purposes of rating.

(4) The Cabinet Secretary may make rules for the better carrying into effect the implementation of this section.

Area Rating.

13. (1) The rating authority may for the purposes of levying rates adopt one or more methods of area rating which may include —

- (a) flat rate upon an area of land;
- (b) a graduated rate upon area of land according to the acreage; or
- (c) a differential flat rate or differential graduated rate upon area of land according to such use, to which the land is put or capable of being put.

Setting of Rate Struck.

14. (1) The county executive committee member responsible for matters finance shall in the Finance Act of the relevant financial year set up the rates struck for forwarding to, consideration approval and passing by the County Assembly.

(2) In setting up the rate struck, the county executive committee member shall take into consideration the values and use of rateable property and prevailing economic situation.

(3) The rating authority shall provide grounds and circumstances informing the determination of the rate struck for the applicable financial year.

Notice of Rate.

15. (1) Every rate levied by the rating authority under this Act shall become due for the financial year for which it is levied.

(2) Where any rate is due for payment, the rate shall become payable on such day in the same financial year as shall be fixed by the rating authority.

(3) Where the rating authority fixes the day for payment of rates and the amount of rate payable, the rating authority shall publish a notice in the gazette to that effect at least sixty days prior to the due date.

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

- Payment rates. of **16.** (1) When the rating authority issues a notice under section 15, it shall be the duty of every person liable for such rate to pay the amounts due either–
- (a) at the authorized bank account;
 - (b) through the existing and regulated electronic payment system platform or
 - (c) such other means as the rating authority may by notice in the gazette appoint.
- (2) The rating authority may prescribe payment of property rates by way of instalments or one-off payments.
- (3) The rating authority shall charge simple interest at the rate not exceeding the prevailing Central Bank Rate.
- (4) For the purposes of this subsection, a part of a month shall be computed as one month.

- Remission rates. of **17.** (1) A rateable owner may apply to a rating authority before the rate payable is due or within fourteen days after the rate payable is due for a remission of the whole or any part of the rate payable by the rateable owner on a rateable property.
- (2) An application for a remission under subsection (1) shall be in FORM No.1 set out in the First schedule and shall contain *inter alia* the reasons for which the remission is sought.
- (3) A rating authority shall upon receiving an application under this section, respond in writing to the application within thirty days of the date of receipt of the application.
- (4) Where for any reason the rating authority declines to grant a remission, the rating authority shall provide the grounds for failure to grant the remission.
- (5) Where a rating authority does not respond to the application under this section upon the expiry of sixty days, the remission shall be deemed to have been granted.

(6) A remission of rates shall expire at the end of the next financial year or after twelve months, whichever is sooner.

(7) The rating authority shall provide guidelines to be considered before grant of remission of rates.

(2) A rating authority in proposing any rates payable under this Act, the regulations or a county legislations take into considerations—

(a) the percentages of remission to be offered;

(b) instances where remission of a percentage of the rates payable may be granted; and

(c) instances where remission of the whole of the rates payable may be granted.

Discounts and
waivers.

18. (1) The rating authority shall prescribe, by notice in the gazette, guidelines on providing for discounts and waivers on partial or whole of the payable interest and penalty rates due to it by the rateable owner.

(2) Without prejudice to the generality of subsection (1), the rating authority shall in issuing guidelines under subsection (1) take into consideration—

(a) rateable owners who make timely payment and are consistent;

(b) the specification on the maximum percentage of rates that may be discounted or waived;

(c) the period in relation to which the discount and/or waiver is to be considered for;

(d) circumstances to be considered; and

(e) the procedure to be applicable for one to seek for discount or waiver.

Enforcement of
payment of
rates.

19. (1) Where any person fails to pay any rates due from them and any interest, as provided for under section 16, within the time fixed for payment, the rating authority may cause a written demand to be made upon such person to pay

within sixty days after service and consequences for failure to pay within the specified timelines.

(2) Where any person having been properly served with demand defaults in paying the rates, the rating authority may—

- (a) levy a penalty at the prevailing Central Bank rate;
- (b) deny certain county services;
- (c) institute a suit against the defaulter;
- (d) create a charge against the rateable property by notifying the Registrar; or
- (e) apply any methods to recover rates as specified under section 20 of this Act and any other method as recognized in law.

(3) Where any rate or any part thereof remains unpaid after the day on which the same became payable and the rateable owner has been notified to make payment and defaults at the lapse of the notice period, the rating authority may, for the purpose of recovering the rates due—

- (a) appoint a receiver on the rateable property to recover rent from tenants and occupiers;
- (b) in case of a matter involving succession under the Law of Succession Act and where the property is yet to be transferred to beneficiaries, apply to be considered as a beneficiary;
- (c) attachment of debts; or
- (d) auction the rateable property at the current market value in accordance to the provided procedures to recover the rates due.

(4) The rating authority shall by notice in the gazette issue guidelines on implementation of this section.

Contribution in lieu of rates.

20. (1) Where any land for which rates are due is public land held by a National Government entity and is located within the jurisdiction of any rating authority, the rating authority shall for purposes of assessing the contribution in lieu of rates payable to the rating authority in respect of that parcel of land, cause the valuer to either prepare a draft valuation roll, assess the rental value rate or any other form of rating on the rateable property in the area of the rating authority.

(2) The National Land Commission shall, in consultation with the Cabinet Secretary, make regulations for the better carrying into effect the provisions of this section and regulations made under this section shall prescribe—

- (a) all public land that should be included in the valuation rolls;
- (b) all public land excluded from appearing on the valuation roll for rating purposes; and
- (c) all public land exempted for purposes of appearing on the valuation roll.

(3) The National Government entity responsible for the payments of rates which may be due in respect of any public land held by the National Government shall remit to the rating authority, an annual contribution in lieu of rates levied under this Act for each and every financial year.

(4) For the purpose of claiming rates under this section, the rating authority shall three months before the rates fall due, lodge a claim to the National Treasury through the National Lands Commission on the contribution in lieu of rates.

(5) A claim for rates under this section shall be in FORM No. 2 set out in the Second schedule and may be accompanied by an introductory letter and any other relevant documentation.

(6) The National Land Commission shall upon receipt of a claim under this section evaluate the claim and may

recommend to the Cabinet Secretary Ministry of Lands to further review before submission to the Cabinet Secretary ,National Treasury for the rates due to be paid accordingly.

PART III – APPOINTMENT AND POWERS OF VALUERS

Criteria to be a valuer. **21** (1) A person shall not undertake any valuation as a lead valuer unless as provided under this section.

(2) For purposes of this section a lead valuer shall —

(a) be registered by the Valuers Registration Board in accordance with the Valuers Act; and

(b) have a minimum of seven years' experience in valuation from their date of registration by the Valuers Registration Board

Cap. 532

Appointment of valuer. **22.** (1) A rating authority shall appoint a valuer to undertake a valuation, to prepare a main valuation roll or supplementary roll for the rating authority on the appointed time of valuation.

(2) Where a private valuers considered for appointment under subsection (1), the rating authority shall take into considerations the provisions set out in the Public Procurement and Asset Disposal Act.

No. 33 of 2015.

Responsibilities of a valuer. **23.** (1) Where a valuer is appointed under this Act, the valuer shall upon appointment —

(a) value all rateable properties using recommended form of rating within the rating authority;

(b) prepare a valuation roll of all the rateable properties recommended for valuation within the rating authority;

- (c) sign and certify the valuation roll;
- (d) prepare a supplementary valuation roll whenever this becomes necessary;
- (e) provide a conclusive well documented basis of valuation report accompanied by the maps and plans and any other documentation to the rating authority;
- (f) upon request, advise the rating authority on rating matters general and implementation of the valuation roll; and
- (g) when summoned, appear as a witness in the proceedings before the Tribunal.

(2) The valuer in collation of the data mentioned in subsection (1) (b) and (c) shall adhere to the guiding principles and obligations of personal data information as outlined in the Data Protection Act, 2019.

No 24 of 2019.

Powers of
valuer.

24. (1) For the purposes of preparing a draft valuation roll or draft supplementary valuation roll, the valuer shall, on production of written authority signed by the relevant officer of the rating authority have the power to—

- (a) enter into or upon any rateable property at all reasonable time between eight o'clock in the forenoon and five o'clock in the afternoon for purposes of inspecting any land within the area of the rating authority in respect of which a rate on the value of the land is, or is to be, imposed;
- (b) inspect and make extracts from all land registers and other records or any deeds or instruments belonging to or in the custody or possession of any public officer or any other person in which are contained particulars of any land, whether that person is or is not interested in the land;
- (c) inquire from an occupier of a rateable property questions on matters that may be necessary to enable the valuer to correctly value that property; and

(d) require, by notice in writing, the rateable owner or occupier of any land to provide the valuer, either in writing or orally with particulars regarding the rateable property which the valuer reasonably requires for purposes of valuing the property.

(2) A person commits an offence under this section where the person—

- (a) willfully neglects to furnish the particulars under subsection (1) (d) within twenty-one days after being called upon so to do ;
- (b) knowingly furnishes to a valuer any false particulars;
- (c) willfully hinders or obstructs a valuer in the exercise or attempted exercise of the powers conferred on him under this section (3) Any person who commits an offence under this section shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding thirty days, or both.

(3) The court may upon convicting a person under this section issue an order to the effect that the person supplies any particulars lawfully demanded by the valuer.

Chief
Government
Valuer.

25. (1) The Chief Government Valuer may upon request by the rating authority cause a valuation to be undertaken for respective rating authority.

(2) The Chief Government valuer shall from time to time develop guidelines with respect to standardization and harmonization on preparation and implementation of valuation rolls.

(3) The Chief Government valuer shall upon request by any person, advise on preparation of valuation rolls for rating areas that cut across two or more counties.

(4) The Chief Government Valuer Shall maintain a depository and record of all valuations rolls prepared across the country.

PART IV – VALUATION FOR RATING

- General basis of valuation. **26.** (1) For the purposes of a valuation roll or supplementary valuation roll, the basis of valuation shall be the market value of a rateable property.
- (2) A valuer may for purposes of arriving at the value of land under this section, adopt any suitable method of valuation that conforms to the local valuation standards, international valuation standards and consider existing physical and land use plans.
- (3) Where a valuation roll or supplementary valuation roll includes the value of the unimproved land, the value of any improvements and the value of the land, and the value of improvements thereon shall not exceed the amount arrived at by deducting the value of the unimproved land from the value of the land.
- Declaration of rateable areas. **27.** All areas within the rating authority shall be a rateable area for purposes of this Act.
- Methods of valuation. **28.** (1) A valuer shall in undertaking valuation, use a suitable method taking into considerations the prevailing national and international valuation principles and standards.
- (2) The Cabinet Secretary shall make regulations for the better carrying onto effect the provisions of this Section.
- Preparation of valuation rolls and supplementary valuation. **29.** (1) A rating authority shall cause preparation of valuation roll to be undertaken in every five years on the rateable properties within a county.
- (2) The rating authority may extend the life of the valuation roll and supplementary roll for a period not exceeding two years subject to approval by the county assembly.
- Contents of draft valuation roll and draft supplementary valuation roll. **30.** (1) Every valuer shall prepare a draft valuation roll or draft supplementary valuation roll listing all properties within the county in such a manner as to show to the best of his knowledge and opinion in respect of every rateable property.

- (2) A draft valuation rolls or supplementary shall include—
- (a) the description, situation and area of the land valued;
 - (b) the name and address of the rateable owner;
 - (c) the use of property;
 - (d) the site value;
 - (e) the assessment for the improvement rate; and
 - (f) any other necessary (if any) information regarding that property.

(2) Where the rating authority has reason to believe that a supplementary valuation rolls needs to be prepared, the authority shall cause a supplementary valuation roll to be prepared where necessary.

(3) The rating authority shall in preparing a supplementary valuation roll rely on data or information that was used in the preparation of the valuation roll and shall not be subjected to the procedure used in preparation of the valuation roll.

(4) A supplementary valuation roll shall include only those alterations and additions to the valuation roll which are permitted by this section.

(5) The draft supplementary valuation roll shall take into account—

- (a) any rateable property omitted from valuation;
- (b) any new rateable property;
- (c) any rateable property which is subdivided or consolidated with other rateable property;
- (d) re-categorization of the rate on the change of use of the rateable property;
- (e) amending the applicable rate for a rateable property that has undergone change of use;
- (f) apportioning the rate of a rateable property that has undergone subdivision from the mainland

(g) any rateable property which, from any cause particular to such rateable property arising since the time of valuation has materially increased or decreased in value, and include such valuation in a supplementary valuation roll.

Alterations of the valuation roll and supplementary valuation roll.

31. (1) The rating authority may alter a valuation roll or supplementary roll for the purpose of—

- (a) correcting a clerical error or omission not affecting the rateable value;
- (b) correcting an error as to, or recording a change in the name of an occupier or rateable owner; and
- (c) correcting an error in the description or address of a rateable property.

Deposit of draft valuation roll and draft supplementary valuation roll.

32. (1) When a draft valuation rolls and draft supplementary valuation roll, if any has been completed, the valuer shall —

- (a) sign and enter the date on the roll;
- (b) transmit the roll accompanied by relevant maps and plans and summarized basis of valuation report depending on the method of appraisal used, to the Chief Officer who shall then forward it to the County Executive Committee member for tabling before the County Assembly.

(2) Where a rating authority requires a summarized valuation report, the summarized valuation report shall for purposes of information for consideration contain information including but not limited to—

- (a) the valuation methodology used;
- (b) the basis for the valuation of the rateable property;
- (c) the date of the valuation of the rateable property;
- (d) any other relevant information obtained by the valuer during the valuation of the rateable property; and

(e) the signature and seal of the valuer.

(3) The Chief Officer shall in addition forward a copy of the draft valuation rolls and draft supplementary valuation roll to the Chief Government valuer for purposes of Section 25(4) of this Act.

(4) The Chief Government valuer shall within thirty days of the receipt of the draft valuation rolls and draft supplementary valuation roll submit a written report to the Chief Officer for their consideration.

(5) The Chief Officer shall upon receipt of the written report from the, the Chief Government Valuer forward the report to the County Executive Committee Member who shall consider the report and submit the draft valuation roll and draft supplementary valuation roll and the accompanying documents to the County Assembly for tabling.

(6) The county executive committee member shall before be submitting the report under this section to the County Assembly conduct public participation for comments on the draft valuation roll for purposes of this section and in accordance with section 34.

(7) Upon tabling, the draft valuation rolls or draft supplementary valuation roll shall be available for public inspection and any person may, during ordinary business hours, inspect it and take copies or extracts from it:

(8) Where any person seeks to inspect the valuation report the person shall pay the prescribed fee, if any to cover the costs of copying and supplying them.

Publication of
the Roll.

33. (1) The county executive committee member shall publish a notice in English, Kiswahili and where

appropriate, a local language in a prescribed form within twenty-one days after its adoption—

(2) A notice under subsection (1) shall be —

- (a) published in the gazette and in at least two newspapers with nationwide distribution;
- (b) through a radio broadcasting via a station popular in that county;
- (c) any approved social media through a verified account.
- (d) in respect of every draft valuation roll or draft supplementary valuation roll inviting members of the public to inspect the roll and raise any objections.

(3) The notice specified in subsection (2) shall —

- (a) state that the roll is open for public inspection for a period which may not be less than forty-five days from the date of publication of that notice; and
- (b) invite any person who wishes to lodge an objection in respect of any matter in, or omitted from, the roll to do so in the manner specified in the notice within the stated period to make such objections.

No. 24 of 2019. (3) The rating authority shall when undertaking processing of data for purposes of raising an objection , adhere to the principles of processing data in accordance to section 30 of the Data Protection Act, 2019.

Objections. **34.** (1) Any person may lodge an objection with the Chief Officer at any time before the expiration of forty-five days from the date of publication of the notice, where the person is aggrieved—

- (a) by the inclusion of any rateable property in, or by the omission of any rateable property from, any draft valuation rolls or draft supplementary valuation roll; or
- (b) by any value ascribed in any draft valuation roll or draft supplementary valuation roll to any

rateable property, or by any other statement made or omitted to be made in the same with respect to any rateable property.

(2) An objection under this section shall be lodged in FORM No. 3 set out in the Third schedule and shall be accompanied, on the payment of a non-refundable objection fees of not less than ten thousand shillings and on the prescribed form,

(2) A person shall before lodging an objection to the Tribunal, file a notice of intention to lodge an objection which notice shall clearly set out the grounds for the objection.

(3) The Tribunal may, where no notice of intention to lodge an objection is filed by the intended objector, admit an objection and consider the same where they have reasons to believe that it was not possible under the circumstance, for the objector to file the notice.

(3) The Chief Officer shall, within twenty-one days after the date on which a notice of objection is lodged the rateable property —

- (a) send a copy to the rateable owner where the objection has been lodged by any person other than the rateable owner; and
- (b) notify and give copies of all the objections received in respect to the rateable properties to the valuer who undertook preparation of the draft valuation or draft supplementary valuation rolls.

(4) The Cabinet Secretary may in consultations with the National Land Commission make rules prescribing the mechanisms of hearing and determining objections lodged in relation to the public valuation roll.

supplementary
valuation rolls.

received, or where all objections duly received have been withdrawn before the day fixed for the first sitting of the Tribunal, the County Executive Committee member shall endorse upon the draft valuation roll or draft supplementary valuation roll and sign a certificate to that effect.

(2) The County Executive Committee member shall publish a notice that the valuation rolls or supplementary valuation roll has been signed and certified under this section.

(3) Objections to any valuation roll or supplementary valuation roll will only apply to specific rateable property for which objections have been raised.

(4) The rateable properties for which no objections have been raised, the rates will be deemed due and payable the objections notwithstanding.

Exemptions.

36. (1) No rating authority shall charge any rates for any land that is exclusively used for public purposes.

(2) For purposes of this Part—

No. 6 of 2012.

“public purposes” has the meaning assigned by section 2 of the Land Act, 2012.

(3) There shall be no valuation for purposes of rating with respect to any land used solely for purposes of —

- (a) public religious worship;
- (b) cemeteries, crematoria and burial or burning grounds for the dead;
- (c) public institutions for the treatment of the sick;
- (d) public educational institutions and libraries;
- (e) Dams;
- (f) Way Leaves;
- (g) museums and national monuments; or
- (h) public outdoor sports.

Provided that nothing in this subsection shall apply to land used for profit or for residential purposes.

(4) Without prejudice to the generality of subsection (3), the parcels of land subject to payment of rates under this Act shall include—

- (a) places of public religious worship with profit earning ventures whereby only the place of worship will remain exempt from taxation;
- (b) rateable property leased for purposes of foreign embassies and missions and property is still registered under the rateable owner.

(5) For the purposes of this section the Cabinet Secretary may make rules—

- (a) determining the principles upon which any land shall be deemed to be used for any of the purposes specified;
- (b) prescribing the principles for determining the circumstances in which any land shall be deemed to be bona fide intended to be used for any of the purposes specified; and
- (c) land not specified under this section shall be subject to assessment and valuation for rating purposes.

PART V- NATIONAL RATING TRIBUNAL

Establishment
of a National
Rating
Tribunal.

37. (1) There is established a National Rating Tribunal which shall be an *ad hoc* Tribunal but from time to time be called upon by the Judicial Service Commission to determine objections that may arise.

(2) The Tribunal shall sit at such times and in such place as it may appoint to ensure reasonable and equitable services to all citizens.

Members of the
Tribunal.

38. (1) The Judicial Service Commission shall appoint members of the Tribunal through an open, competitive and transparent process.

(2) The Tribunal shall consist of not more than fifteen members comprising —

- (a) a Chairperson who shall be among persons qualified to be a judge of the Environment and Land Court; and

- (b) fourteen other persons not being civil servants possessing knowledge, skills and experience in —
- (i) law,
 - (ii) valuation and rating,
 - (iii) physical planning,
 - (iv) land surveying,
 - (v) information technology,
 - (vi) economics,
 - (vii) finance ; or
 - (viii) public administration .

(3) The Judicial Service Commission shall , in constituting the Tribunal ,ensure that not more than two-thirds of the members are of the same gender.

Mandate of the Tribunal.

39. (1) The mandate of the Tribunal shall be —

- (a) to hear and determine all objections made under this Act; and
- (b) to review decisions made by the rating authority in matters of enforcement of rates or recovery of rates.

Proceedings of the Tribunal.

40. (1) The Tribunal shall within six months from the date of receipt of objections, determine all objections lodged in accordance with this Act

Cap 80.

(2) The Tribunal shall not be bound by the rules of the Evidence as set out in the Evidence Act.

(3) The Tribunal shall, upon receipt of an objection made to it in writing by any party or a referral made to it by the rating authority on any objections relating to this Act —

- (a) inquire into the matter and make an award; or
- (b) give directions, make orders or make decisions thereon.

(4) Where the Tribunal makes any award, direction or decision, the Tribunal shall notify the parties concerned or the Rating Authority, as the case maybe.

(4) The proceedings of the Tribunal shall be open to the public save where the Tribunal, for good cause, otherwise directs.

(5) Any person who is a party to the proceedings before the Tribunal may appear in person or be represented by an Advocate.

Oath of office. **41.** A person who is appointed a member of the Tribunal shall, before assuming the duties of the office, take and subscribe to the oath of allegiance to the office in the manner provided in FORM No. 4 set out in the Fourth Schedule.

Quorum. **42.** (1) For the purposes of hearing and determining any cause or matter under this Act, three members shall form a quorum who shall where the chairperson is absent, nominate a chairperson amongst them.

(2) The decision of the Tribunal shall be according to the opinion of the majority.

Disclosure of interest. **43.** A member of the Tribunal who has an interest in any matter, whether direct or indirect, that could conflict with the proper performance of the member's functions, shall —

(a) disclose the interest to the parties to the proceedings; and

(b) not be present during any deliberations on the matter by the Tribunal or take part in a decision of the Tribunal on the matter.

Tenure. **44.** The members of the Tribunal shall serve for a maximum of three years renewable once .

Technical advice. **45.** (1)The Tribunal may seek technical advice from persons whose specialized knowledge or experience may assist the Tribunal in its proceedings:

(2) Where the Tribunal seeks technical advice from any person under this section, the person shall disclose any interest they may have in the matter before the Tribunal or any subsequent interest acquired relating to the matter in question.

Arrangement of business. **46.** (1) The Chairperson of the Tribunal shall be responsible for ensuring the orderly and expeditious discharge of the business of the Tribunal.

(2) Without prejudice to the generality of subsection (1), the Chairperson may give directions relating to —

- (a) the arrangement of the business of Tribunal;
- (b) the places at which the Tribunal may sit generally; and
- (c) the procedure of the Tribunal at a particular place.

(3) The times and places of the hearings of the Tribunal shall be determined by the Chairperson with a view to securing a reasonable opportunity for applicants to appear before the Tribunal with as little inconvenience and expense shall be practicable.

(4) The Chairperson shall by notice in the gazette prescribe the rules of procedure of the Tribunal.

Powers of the
Tribunal.

47. (1) The Tribunal 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;

(b) administer an oath or solemn affirmation to any person;

(c) question any person, or have that person questioned;

(d) retain a document produced in terms of paragraph (a) (ii) for a period not exceeding thirty days;

(e) assess the rates due on any land either on the application of any person interested;

(f) investigate any complaint relating to the valuation for rating of rateable property; and

(g) make a determination on a dispute on rating matters.

(2) A person appearing before the Tribunal, whether summoned or not, may at their own expense be accompanied by a representative.

Remuneration
of members of
the Tribunal.

48. (1) There shall be paid to the Chairperson and the members of the Tribunal such remuneration and allowances as the Judicial Service Commission in consultation with Salaries and Remuneration Commission shall determine.

(2) The remuneration and allowances referred to in subsection (1) and any other reasonable expenses incurred by the Tribunal in the execution of its functions under this Act shall be paid out of the Judiciary Fund.

(3) Any person who gives technical advice in accordance with section 46 to the Tribunal shall be paid such allowance as may be determined by the Tribunal.

Staff of the
Tribunal.

49. There shall be such other staff seconded by the Judicial Service Commission to the Tribunal as may be necessary for the performance of the functions of the Tribunal.

Vacancy of the
Tribunal.

50. (1) The office of a member of the Tribunal shall become vacant—

- (a) if appointment lapses;
- (b) if the member accepts any office the holding of which, if he or she were not a member of the Tribunal, would make him or her ineligible for appointment to the office of member of the Tribunal;
- (c) if the member is removed from membership of the Tribunal by the Judicial Service Commission for failure to discharge the functions of his office, whether arising from infirmity of body or mind or from any other cause or for misconduct;
- (d) if the member of the Tribunal dies;
- (e) if the member of the Tribunal is adjudged bankrupt or declared to be persons of unsound mind; or
- (f) if the member resigns through a letter to the Chief Justice.

(2) A person desiring the removal of a member of the Tribunal on the ground specified in subsection 1 (c) may present a complaint under oath to the Judicial Service Commission setting out the alleged facts constituting that ground.

(3) The Judicial Service Commission shall upon receiving a complaint, consider the complaint and if satisfied that it discloses a ground under subsection 1 (c) —

(a) may suspend the member pending the outcome of the complaint; or

(b) shall appoint a Tribunal to investigate the complaint.

Evidence.

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

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

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

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

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

Penalty for failure to comply with Tribunal's lawful order.

52. Any person who fails to comply with any lawful order or decision of the Tribunal after the expiration of the time allowed for an appeal therefrom, or, if an appeal has been filed, after such order or decision has been upheld, commits an offence and is liable upon conviction to a fine

not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Appeals.

53. (1) Appeals from the Tribunal shall be to the Environment and Land Court.

PART VI- MISCELLANEOUS

Notices.

54. (1) Except where otherwise provided by this Act, any notice required to be published under this Act by the rating authority shall be—

- (a) published once in the Kenya Gazette for a period of twenty-one days;
- (b) advertised in one or more newspapers with wide circulation in the county; and
- (c) posted on any social platform with county-wide reach.

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

- (a) by delivering it to the person to or on whom it is to be sent or served;
- (b) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; or
- (c) by ordinary or registered post;
- (d) by delivering it to some person on the premises to which it relates, or, if there is no person on the premises to whom it can be delivered, then by fixing it on or to some conspicuous part of the rateable property;
- (e) by email; or
- (f) by use of short message services or by any method which may be prescribed.

(3) Any notice, demand or other document by this Act required or authorized to be served on the rateable owner of

any premises may be addressed by the description “rateable owner” of the premises, without further name or description.

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

Repeal of Cap
267 and Cap
266.

55. The –

- (a) Rating Act; and
 - (b) Valuation for Rating Act,
- are hereby repealed.

PART VII - PROVISIONS ON DELEGATED LEGISLATION

Regulations.

56. (1) The Cabinet Secretary may make regulations generally for the better carrying into effect the provisions and purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations on–

- (a) preparation of valuation rolls and supplementary valuation rolls;
- (b) property exempt from payment of rates;
- (c) timelines to be considered in implementation of this Act;
- (d) penalties on interest rates;
- (e) annual rental value rate
- (f) valuation of inter county rateable properties; and
- (g) tax rates to ensure its compliance with Article 209(5) of the Constitution.

(3) The National Lands Commission shall make rules for valuation of Public land for purposes of paying Contribution in lieu of rates;

(4) The rating authority shall make legislation and regulations for the better implementation of the provision of this Act provided the regulations made under this subsection are consistent with regulations issued under subsections (2) and (3) of these regulations.

(5) Without prejudice to the generality of subsection (4), the rating authority shall make regulations on-

(a) Use of appropriate technology in the implementation of this Act;

(b) Circumstances under which discounts, waivers and remissions may apply;

(c) procedures when considering auction of rateable property;

(d) procedure on issuance of agency notices;

(e) county services to be denied upon default;

(f) procedure on transmission and tabling of the prepared draft valuation roll and draft supplementary valuation roll; and

(g) setting their rate struck.

Savings and transition.

57. (1) Any existing rolls prepared before commencement of this Act shall be deemed to have been prepared under this Act.

(2) Where existing rolls do not conform with the provisions of this Act, the rating authority shall within a period of twenty-four months bring them into conformity.

(2) Any written law by the national and county government relating to valuation and rating in force immediately before the commencement of this Act shall have effect, subject to such modifications as may be necessary to give effect to this Act, and where the provisions of such law are in conflict with any provisions of this Act, the provisions of this Act shall prevail.

FIRST SCHEDULE

FORM No.1. S17

APPLICATION FOR REMISSION OF THE WHOLE/PART OF THE RATE PAYABLE BY THE OWNER OF A RATABLE PROPERTY.

RATING AUTHORITY.....

DATE.....

FINANCIAL YEAR.....

NAME OF RATEABLE OWNER.....

PARCEL NUMBER.....

Reasons for application of remission
Attachments of any evidence is required*
OFFICIAL REMARKS

SECOND SCHEDULE

FORM No. 2. S 20

CILOR CLAIM FORM

RATING AUTHORITY.....

DATE.....

FINANCIAL YEAR.....

Form of Rating/Rating Area.	Acreage (ha)	Total value of rated land	Rate struck (%)	Area Rate (Kshs.)	Total Rates due.
<i>Valuation Roll</i>					
<i>Area Rate</i>					
<i>Annual Rental value rate</i>					
<i>Forest land</i>					
Attachments required*					
OFFICIAL REMARKS					

THIRD SCHEDULE

FORM No. 3. S 34

RATES OBJECTION FORM

THE CHIEF OFFICER.....

(NAME OF RATING AUTHORITY).....

DRAFT PRIVATE LAND VALUATION ROLL (YEAR)- NOTICE OF OBJECTION UNDER SECTION 34(2) OF NATIONAL RATING BILL 2021

PART I: DETAILS OF PROPERTY AS SET OUT IN THE DRAFT VALUATION ROLL

1. SERIAL NO.....
2. LOCALITY/ SITUATION.....
3. LAND PARCEL/ PLOT NO.....
4. NAME OF REGISTERED OWNER.....
5. AREA (HA).....
6. VALUE IN KSHS.....

PART II: DETAILS OF OBJECTOR

1. FULL NAMES OF OBJECTOR.....
2. CURRENT POSTAL ADDRESS.....
3. CURRENT TELEPHONE CONTACTS/
EMAIL.....
4. IF OBJECTOR IS THE REGISTERED RATEABLE OWNER?
ANSWER YES OR NO.....
IF NOT WHAT IS THE RELATIONSHIP TO THE RATEABLE
OWNER? (ATTACH PROPER DOCUMENTS OF PROOF TO
RELATIONSHIP).....
5. SIGNATURE.....
DATE.....

Note- clear copy of identification incase of owner or certified copy of registration in case of legal person to be attached

PART III: DETAILS OF THE OBJECTION

1.
2.
3.

NOTE: ATTACH A SEPARATE SHEET OF PAPER FOR ADDITIONAL GROUNDS OF OBJECTIONS IF NECESSARY

PART IV: DETAILS OF PAYMENT

NOTE; THIS PART TO BE FILLED BY COUNTY GOVERNMENT OFFICER. A FEE OF SHILLINGS (AS DETERMINED BY COUNTY) IS PAYABLE TO COUNTY FOR EACH SEPARATE ENTRY IN OR OMISSION FROM VALUATION ROLL AGAINST WHICH OBJECTION IS LODGED.

1. NUMBER OF OBJECTIONS ON THIS PROPERTY.....
2. FEE AMOUNT PAID.....
3. RECEIPT NUMBER.....
4. DATE OF RECEIPT.....

PART V: ACKNOWLEDGEMENT OF THE RECEIPT OF OBJECTION(S)

BY MY SIGNATURE AFFIXED BELOW, I ACKNOWLEDGE HAVING RECEIVED THE OBJECTION(S) IN RESPECT OF PLOT NUMBER.....FOR NECESSARY ACTIONS.

REMARKS.....

DATE.....

BY COUNTY GOVERNMENT OF.....

FOURTH SCHEDULE

FORM No. 4 s.41

**OATH OR SOLEMN AFFIRMATION OF ALLEGIANCE OF THE
CHAIRPERSON/ MEMBER OF THE TRIBUNAL.**

I,, having been appointed to be the Chairperson/ member of the Tribunal do (swear in the name of the Almighty God)/(solemnly affirm) to diligently serve the people and the Republic of Kenya and to impartially do Justice in accordance with the Constitution , the National Rating Act, 2021 and any other applicable laws and customs of the Republic, without any fear, favour, bias, affection, ill-will, prejudice or any political, religious or other influence. In the exercise of the judicial functions entrusted to me, I will at all times, and to the best of my knowledge and ability, protect, administer and defend the Constitution and Land related laws with a view to upholding the dignity and the respect for the Tribunal promoting fairness, independence, competence and integrity within it. (So help me God.)

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of the Bill is to provide for the framework for imposition of rates on land and buildings by county governments; provide for the valuation of ratable property under one law; provide for the appointment and powers of valuers; provide for the establishment, powers and functions of the National Rating Tribunal;

PART I (Clause 1- 6) of the Bill contains preliminary provisions.

PART II (Clause 7-20) of the Bill contains provisions on duty to levy on County Governments and principles to be adhered to while collecting the revenue which is in line with the Constitution and Public Finance Management Act, 2012. This part defines who a rateable owner is, their mandate and the requirements of ensuring rates are paid when they fall due. The part further outlines different categories of properties considered for purposes of rating. The part provides for forms of rating, notice of rating, setting of rating struck, notice of rate, payment and remission of rates, discounts and waivers and enforcement of payment of rates. In addition, the Part also provides for the procedure for claim and payment of CILOR.

PART III (Clause 21 – 25) of the Bill contains provisions on appointment and powers of valuers. Clause 21 and 22 of the Bill lists the criteria of one to be appointed a valuer, Clause 24 and 25 of the Bill gives the responsibilities and powers of the valuer. Clause 25 provides for the role of the Chief Government Valuer with respect to standardization and harmonization on preparation and implementation of the valuation rolls.

PART IV (Clause 26-36) of the Bill contains provisions on the valuation for rating. The part gives the general basis of valuation, declaration of ratable areas and methods used for valuation. Clauses 29 and 30 provides for preparation and contents of valuation rolls and supplementary valuation rolls together with their alterations. Publication of the roll, the objections thereof and exceptions are provided for in the part. Uncontested draft valuation roll and draft supplementary valuation rolls are also provided for in the Part.

PART V (Clause 37- 53) of the Bill contains provisions on National Rating Tribunal. This part seeks to establish an ad hoc tribunal, providing for its members, mandate, how to conduct its proceedings, quorum, disclosure of interest, powers of the tribunal, tenure, remuneration, staff of the tribunal, vacancy, how to produce evidence, penalty for failure to comply with tribunal's lawful order and appeal mechanisms from the Tribunal.

PART VI (Clause 54- 55) of the Bill contains miscellaneous provisions providing for notices and repeal of Cap 266 and 267.

PART VII (Clause 56-57) of the Bill contains proposed regulations and savings and transitions of any written national and county laws relating to valuation and rating.

Statement on delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative power to the Cabinet Secretary to make regulations. The Bill does not limit any fundamental rights or freedoms.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Statement as to whether the Bill Concerns County Government

This Bill is a Bill concerning County Government within the meaning of Article 110 of, and the Fourth schedule to the Constitution.

Dated the.....2021.

Amos Kimunya, MP
Leader of Majority Party