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Provincial and Local Government, Department of

General Notice

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GENERAL NOTICE

NOTICE 850 OF 2003

DEPARTMENT OF PROVINCIAL AND LOCAL GOVERNMENT

LOCAL GOVERNMENT: PROPERTY RATES BILL, 2003

The Minister for Provincial and Local Government intends introducing the Local Government: Property Rates Bill, 2003 in the National Assembly during the first quarter of 2003. The draft Bill is hereby published in accordance with Rule 241(1)(c) of the Rules of the National Assembly.

Interested persons and institutions may submit written representations on the draft Bill to the Secretary to Parliament by no later than 15-04-2003.

- (a) by posting it to the following address:

The Secretary to Parliament
PO Box 15
CAPE TOWN
8000

OR

- (b) by delivering it at the following address:

The Secretary to Parliament
Parliament Building
Room V20
Parliament Street
Cape Town

REPUBLIC OF SOUTH AFRICA

LOCAL GOVERNMENT: PROPERTY RATES BILL

*(As introduced in the National Assembly as a section 75-Bill; explanatory summary
of Bill published in Government Gazette No. of) (The English text is the
official text of the Bill)*

(MINISTER OF PROVINCIAL AND LOCAL GOVERNMENT)

[B - 2003]

BILL

To regulate the power of a municipality to impose rates on property; to amend the Local Government: Municipal Systems Act, 2000, so as to make further provision for the serving of documents by municipalities; to repeal certain legislation; and to provide for matters connection therewith.

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

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CHAPTER 1

INTERPRETATION

Definitions

1. In this Act, unless the context otherwise indicates—

"appeal board" means a valuation appeal board established in terms of section 49;

"annually" means once every financial year;

"category", in relation to property, means a category of property determined in terms of section 8;

"date of valuation" means the date determined by a municipality in terms of section 28(1);

"district management area" means a part of a district municipality which in terms of section 6 of the Municipal Structures Act has no local municipality and is governed by that municipality alone;

"district municipality" means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155 (1) of the Constitution as a category C municipality;

"effective date", in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 29(1);

"existing rateable property" means property on which a rate was levied before 30 June 2002;

"financial year" means the period starting 1 July in a year to 30 June the next year;

"improved value", in relation to a property, means the value of property, including improvements, determined in accordance with this Act;

“improvements”, in relation to a property, means any building, whether movable or immovable, and any other immovable structure in or on the property or under the surface of the property, but excludes—

- (a) a structure constructed solely for the purpose of constructing such a building or immovable structure; and
- (b) any building or other immovable structure under the surface of the property which is the subject matter of any mining authorisation or mining right as defined in the Minerals Act, 1991 (Act No. 50 of 1991);

“land reform beneficiary”, in relation to a property, means a person who—

- (a) acquired the property through—
 - (i) the Provision of Certain Land for Settlement and Assistance Act, 1993 (Act No. 126 of 1993); or
 - (ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); or
- (b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or
- (c) holds or acquires the property in terms of such other land tenure reform legislation as may hereafter be enacted pursuant to subsection (6) or (7) of section 25 of the Constitution;

“land tenure right”, means any deed of grant, quitrent, permission to occupy or other right created by legislation or recognised by indigenous law to occupy land, but does not include full ownership;

“local community”, in relation to a municipality—

- (a) means that body of persons comprising—
 - (i) the residents of the municipality;
 - (ii) the ratepayers of the municipality;

- (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
 - (vi) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and
- (b) includes, more specifically, the poor and other disadvantaged sections of such body of persons;

“local municipality” means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155 (1) of the Constitution as a category B municipality;

“MEC for local government” means the member of the Executive Council of a province responsible for local government in that province;

“metropolitan municipality” means a municipality that has exclusive executive and legislative authority in its area, and which is described in section 155 (1) of the Constitution as a category A municipality;

“Minister” means the Cabinet member responsible for local government;

“municipal council” or **“council”** means a municipal council referred to in section 18 of the Municipal Structures Act;

“municipality” –

- (a) as a corporate entity, means a municipality as described in section 2 of the Municipal Systems Act; and
- (b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

"municipal manager" means a person appointed in terms of section 82 of the Municipal Structures Act;

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"newly rateable property" means rateable property on which property rates were not levied before 30 June 2002;

"occupier", in relation to a property, means a person in actual occupation of property without regard to the title, if any, under which that person occupies the property;

"organ of state" means an organ of state as defined in section 239 of the Constitution;

"owner"—

(a) in relation to property referred to in paragraph (a) of the definition of "property", means—

- (i) a person in whose name the property is registered; or
- (ii) in the case of a sectional title scheme, a person in whose name a sectional title unit is registered;

(b) in relation to a right referred to in paragraph (b) of the definition of "property", means a person in whose name the right is registered; or

(c) in relation to a land tenure right referred to in paragraph (c) of the definition of "property", means a person in whose name the right is registered or to whom it was granted in terms of legislation,

provided that persons mentioned below may be regarded by a municipality as owner in the following cases:

- (i) A trustee, in the case of property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of property in a deceased estate;
- (iii) a trustee or liquidator, in the case of property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of property in the estate of a person under judicial management;
- (v) a curator in the case of property in the estate of a person under curatorship;
- (vi) an usufructuary, in the case of a property that is subject to a usufruct; or
- (vii) a lessee, in the case of property that is registered in the name of a municipality and is leased by it;

“person” includes an organ of state;

“prescribe” means prescribe by regulation in terms of section 71;

“property” means—

- (a) immovable property registered in the name of a person;
- (b) a right registered against immovable property in the name of a person; or
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation;

“property register” means a register of properties referred to in section 20;

“protected area” means any area declared in terms of national or provincial legislation as an area for the conservation of the biological diversity in the area or the preservation of the ecological integrity of the area;

“public service infrastructure” means—

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams and water supply reservoirs forming part of a water or sewer scheme serving the public across a municipal boundary;
- (c) power stations, substations or power lines forming part of an electricity scheme serving the public across a municipal boundary;
- (d) pipelines for gas and liquid fuels, forming part of a scheme for transporting such fuels across a municipal boundary;
- (e) railway lines forming part of a national railway system;
- (f) telecommunication towers or lines forming part of a telecommunications system serving the public across a municipal boundary;
- (g) runways or aprons at national or provincial airports;
- (h) waterways at harbours to and from which goods, services or labour move across a municipal boundary; or
- (i) rights of way, easements and servitudes in connection with infrastructure mentioned in paragraphs (a) to (h);

“rate” means a municipal rate on property envisaged in section 229(1)(a) of the Constitution;

“rateable property” means property on which a municipality may in terms of section 2 levy a rate, excluding property in respect of which rates are disallowed in terms of section 15(1);

“register”—

- (a) means to record in a register in terms of—
 - (i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or

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

and “**registered**” and “**unregistered**” have corresponding meanings;

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

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

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

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

- (a) in trust for a tribe or another identifiable community of persons;
- (b) over which land tenure rights were registered or granted; or
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);

“**this Act**” includes regulations made in terms of section 71.

CHAPTER 2

RATING

Power to levy rates

- 2. (1) A metropolitan or local municipality may levy a rate on property in its respective area.
- (2) A district municipality may not levy a rate on property except on property in a district management area within the municipality.

(3) A municipality must exercise its power to levy a rate on property subject to—

- (a) section 229 of the Constitution;
- (b) other provisions of this Act; and
- (c) the rates policy it must adopt in terms of section 3.

Part 1

Rates policy

Adoption of rates policy

3. (1) A municipal council must adopt a policy consistent with this Act on the levying of rates on rateable property in a municipality.

(2) A rates policy must—

- (a) treat persons liable for rates equitably;
- (b) determine the criteria to be applied by a municipality if it—
 - (i) levies different rates for different categories of property;
 - (ii) exempts a property or property of a specific category from a rate;
 - (iii) grants rebates or reductions in respect of a rate; or
 - (iv) increases rates;
- (c) identify and quantify all exemptions, rebates and reductions in terms of costs to a municipality and benefit to the local community;
- (d) take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them;
- (e) take into account the effect of rates on welfare and charitable organisations, in the case of property used by such organisations;

- (f) allow a municipality to promote local, social and economic development; and
- (g) identify, on the basis of a cost benefit analysis, all rateable properties that may not be subjected to valuation for purposes of rating.

(3) Any exemptions, rebates or reductions referred to in subsection (2) and provided for in a rates policy adopted by a municipality, must comply with any national framework that may be prescribed.

Process of community participation

4. (1) Before a municipality adopts its rates policy, a municipality must—

- (a) follow a process of community participation in accordance with Chapter 4 of the Municipal Systems Act; and
- (b) comply with subsection (2).

(2) A municipal manager must—

- (a) conspicuously display, for a period of at least 14 days, a copy of the draft rates policy at the main administrative office of that municipality and at such other places within the municipality to which the public has access and as he or she may determine; and
- (b) publish in a newspaper of general circulation in that municipality a notice—
 - (i) stating—
 - (aa) that a draft rates policy has been prepared for submission to the council; and
 - (bb) that a copy of the draft rates policy is available for public inspection during office hours at the main administrative office of

the municipality concerned and any other places specified in the notice; and

- (ii) inviting the local community to submit written comments and representations to the municipality concerned within a period specified in the notice.

(3) A municipal council must take all comments and submissions made to it or received by it into account when it considers the draft rates policy.

Annual review of rates policy

5. (1) A municipal council must annually review, and if necessary, adjust its rates policy.

(2) Sections 3 and 4, read with the necessary modifications as the context may require, apply to any adjustment of a rates policy.

By-laws to give effect to property rates policy

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

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

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

Part 2**Levying of rates****Rates to be levied on all rateable property**

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

(2) Subsection (1) does not –

(a) oblige a municipality to levy a rate on property–

(i) of which that municipality itself or by another municipality is the owner;
or

(ii) referred to in paragraph (b) of the definition of “property” in section 1; or

(iii) for which tenure is legally insecure as a result of past racially discriminatory laws or practices and for which it is therefore impossible or unreasonably difficult to establish a value.

(b) prevent a municipality from granting in terms of section 14 exemptions from, or rebates or reductions on, rates levied in terms of subsection (1).

Differential rates

8. (1) Subject to section 16, a municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property.

(2) A municipality may determine categories of rateable property

for the purposes of subsection (1) according to—

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

(3) Categories of rateable property that may be determined in terms

of subsection (2) include the following:

- (a) residential properties;**
- (b) industrial properties;**
- (c) commercial properties;**
- (d) farm property used for –**
 - (i) agricultural purposes;**
 - (ii) other commercial purposes; or**
 - (iii) non-commercial purposes;**
- (e) unused farm property;**
- (g) small holdings used for –**
 - (i) agricultural purposes;**
 - (ii) residential purposes;**
 - (iii) industrial; or**
 - (iv) commercial purposes;**
- (h) privately owned towns serviced by the owner;**
- (i) formal and non-formal settlements;**
- (j) tribal and other forms of communal property;**
- (k) state trust land;**
- (l) property –**

- (i) acquired through the Provision of Land and Assistance Act, 1993 (Act No.126 of 1993), or the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); or
- (ii) which is subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996);
- (m) protected areas; or
- (n) property on which national monuments are proclaimed.

Levying of rates on property in sectional title schemes

9. A rate on property which is subject to a sectional title scheme, must be levied on the individual sectional title units in the scheme and not on the property as a whole.

Amount of rate

- 10. (1)** A rate levied on property must be—
- (a) a rate based on the improved value of the property shown on the current valuation roll of a municipality; or
 - (b) a flat rate for property within a specified valuation band, provided that band is below a prescribed valuation limit.
- (2) The amount of a flat rate in terms of subsection (1) (b) may not exceed the amount that would otherwise have been payable on properties in the lower end of the valuation band had the rate been levied in terms of subsection (1)(a).

Period for which rates may be levied

11. A rate may be levied by a municipality for not more than one financial year at a time, except with the approval of the MEC for local government.

Commencement of rates

12. A rate—

- (a) takes effect from the start of a financial year or from such later date as may be specified in the resolution referred to in section 13 in terms of which the rate is levied; and
- (b) may not be levied retrospectively.

Rates to be levied by resolution

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

(2) A municipal manager must, without delay —

- (a) conspicuously display for a period of at least 30 days a copy of the resolution at the main administrative office of the municipality concerned and at such other places within the municipality to which the public has access and as he or she may determine; and
- (b) publish in a newspaper of general circulation in that municipality a notice stating —

- (i) that a resolution levying a rate on property has been passed by the council; and
- (ii) that a copy of the resolution is available for public inspection during office hours at the main administrative office of the municipality concerned and at any other places specified in the notice.

Exemptions, reductions and rebates

14. (1) A municipality may in terms of a criteria set out in its rates policy –

- (a) exempt the owner of a specific property, or the owners of a specific category of properties, from payment of a rate levied on their property; or
- (b) grant to the owner of a specific property, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable on their property.

(2) A municipal manager must annually table in the municipal council –

- (a) a list of all exemptions, rebates and reductions granted in terms of subsection (1) during the previous financial year; and
- (b) a statement reflecting the income foregone for the municipality by way of such exemptions, rebates and reductions.

(3) All exemptions, rebates and reductions granted in terms of subsection (1) must be reflected in the annual budget of a municipality–

- (a) as income on the revenue side; and
- (b) as expenditure on the expenditure side.

Part 3**Limitations on levying of rates****Constitutional constraints**

15. (1) A municipality may not exercise its power to levy rates on property in a way that would materially and unreasonably prejudice –

- (a) national economic policies;
- (b) economic activities across its boundaries; or
- (c) the national mobility of goods, services, capital or labour.

(2) Rates that are disallowed in terms of subsection (1) include rates on—

- (a) public service infrastructure;
- (b) coastal public property regulating the protection of the coastal environment;
- (c) the territorial waters of the Republic as determined in the Maritime Zones Act, 1994 (Act No. 15 of 1994), and islands of which the state is the owner;
- (d) the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948);
- (e) any State owned land declared as a national or provincial protected area, excluding any such part of such area which is used for commercial or business purposes;
- (f) mineral rights within the meaning of paragraph (b) of the definition of “property” in section 1;

- (g) property belonging to land reform beneficiary for a period of ten years the date on which such beneficiary's title is registered in the office of the Registrar of Deeds, for so long as the property is owned by the land reform beneficiary who first acquires title and his or her heirs;
- (h) at least the first R15 000 of value of all residential property, unless that the Minister may, in consultation with the Minister of Finance, from time to time, increase this monetary limit to reflect inflation; and
- (i) property or a category of properties identified in terms of subsection (3), or rates above the specified limit on such property or category of properties.

(3) If a rate on any specific property or category of properties or a rate above a specific limit on such property or category of such properties, would materially and unreasonably prejudice any of the matters listed in paragraphs (a) to (c) of subsection (1), the Minister, acting with the concurrence of the Minister of Finance, may by notice in the *Gazette* –

- (a) identify that property or category of properties;
- (b) specify that limit, if applicable; and
- (c) give notice to the relevant municipality or municipalities that a rate, or a rate above the specified limit, on that property or category of properties is disallowed in terms of subsection (2)(i).

(4) A notice issued in terms of subsection (3) must give the reasons why a rate on that property or category of properties, or a rate above the specified limit on that property or category of properties, would materially and unreasonably prejudice a matter listed in paragraph (a) to (c) of subsection (1).

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

Impermissible differentiation

16. (1) A municipality may not—

- (a) levy different rates on different categories of residential properties, except as provided for in sections 10(1)(b), 18 and 75;
- (b) levy a rate on non-residential property that exceeds a prescribed ratio to the rate on residential properties determined in terms of section 10(1)(a); or
- (c) levy rates which unreasonably discriminate between categories of—
 - (i) commercial properties;
 - (ii) industrial properties; or
 - (iii) agricultural properties.

(2) The ratio referred to in subsection (1)(b) may only be prescribed with the concurrence of the Minister of Finance.

Limits on annual increases of rates

17. (1) The Minister may, with the concurrence of the Minister of Finance and by notice in the *Gazette*, set a limit on the percentage by which a rate on property may be increased.

(2) Different limits may be set in terms of subsection (1) for —

- (a) different kinds of municipalities which may, for the purposes of this section, be defined in the notice either in relation to categories or types of municipality within the meaning of the Municipal Structures Act or in any other way; or
- (b) different categories of property.

(3) The Minister may on good cause exempt a municipality from a limit set in terms of subsection (1).

Compulsory phasing in of certain rates

18. (1) A rate levied on new rateable property or on property of which the owner is a land reform beneficiary must, subject to subsection (4), be phased in over a period of three financial years, beginning from the end of the rates exclusion period specified in terms of paragraph 15(2)(g).

(2) A rate referred to in subsection (1) may –

- (a) in the first year be no more than 25 per cent of the rate for that year otherwise applicable to the property;
- (b) in the second year be no more than 50 per cent of the rate for that year otherwise applicable to the property; and
- (c) in the third year be no more than 75 per cent of the rate for that year otherwise applicable to the property.

(3) A rate levied on new rateable property or on property of which the owner is a land reform beneficiary may not be higher than the rate levied on similar property or category of property in the municipality.

(4) The MEC for local government may extend the phasing in period referred to in subsection (1) to a period which together with the initial period does not exceed six financial years.

(5) When extending a phasing in period, the MEC for local government must determine the maximum percentage of the rate payable during each financial year in the extended period.

Part 4

Additional rates

Special rating areas

19. (1) A municipality may –

- (a) define an area within that municipality as a special rating area; and
- (b) levy an additional rate on property in that area for the purpose of funding for improvements exclusively in that area.

(2) Before determining a special rating area, a municipality–

- (a) must consult the local community;
- (b) must obtain the consent of the majority of the members of the local community in the proposed special rating area that may be required to contribute to the additional rate; and
- (c) may establish a committee composed of persons representing the community in that area to act as a consultative and advisory forum for that municipality on the improvements to be effected in it, provided gender representivity is taken into account when such committee is established.

(3) When a municipality determines a special rating area, that municipality must –

- (a) determine the boundaries of that area ;
- (b) indicate improvements to be effected in that area; and
- (c) establish separate accounting and other record-keeping systems regarding the revenue generated by the additional rate and the improvements to be effected in that area.

(4) Subsection (1) does not preclude a municipality from using its resources derived from sources other than an additional rate to fund improvements anywhere in that municipality, including a special rating area.

Part 5

Municipal property register

Register of properties

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

(2) Part A of the register consists of the valuation roll.

(3) Part B of the register must specify which properties on the valuation roll are subject to –

- (a) an exemption from the rate in terms of section 14;
- (b) a rebate on or a reduction in the rate in terms of section 14; and
- (c) a phasing in of the rate in terms of section 18.

(4) The register must be open for inspection by the public during office hours.

- (5) A municipality must review the register at least annually.

CHAPTER 3

LIABILITY FOR RATES

Property rates payable by owners

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

(2) Joint owners of property other than property in a sectional title scheme are jointly and severally liable for the amount due for rates.

Payment of rates on property in sectional title schemes

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

(2) A municipality may not recover the rate, or any part of it, from the body corporate controlling a sectional title scheme.

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

Method and time of payment

23. (1) A municipality may recover a rate—

(a) in a single amount annually or in periodic instalments of equal or varying amounts; or

(b) in special cases, as may be agreed with the owner of the property.

(2) (a) If a rate is payable in a single amount annually it must be paid before a day determined by that municipality.

(b) If it is payable in instalments it must be paid before a day in each period determined by that municipality.

Accounts to be furnished

24. (1) A municipality must furnish each person liable for the payment of a rate with a written account specifying –

(a) the amount payable;

(b) the date before which the amount is payable;

(c) the basis of calculation of the amount;

(d) the improved value of the property;

(e) particulars of any phasing in of the rate; and

(f) in the case of an additional rate referred to in section 19, the amount and the purpose of the rate.

(2) A person who has not received a written account in terms of subsection (1) must enquire from the municipality's office the amount due for rates and, on receipt of such information, is liable for payment of such rates.

Recovery of arrear rates from tenants and occupiers

25. (1) If an amount due for rates levied in respect of a property is unpaid after the day determined in terms of section 23(2), a municipality may recover the amount in whole or in part from a tenant or occupier of the property.

(2) The amount a municipality may recover from the tenant or occupier of the property is limited to the amount of the rent or other money due and payable by the tenant or occupier to the owner of the property.

(3) Any amount a municipality recovers from the tenant or occupier of the property may be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.

Absent owners

26. (1) If an owner of a property is absent, a municipality may recover the amount due for rates on the property in whole or in part from the agent of the owner or other person receiving rent for the property on behalf of the owner.

(2) A municipality may recover the amount due for rates from an agent of the owner or person receiving rent for the property on behalf of the owner, only after it has given written notice to that agent or person.

(3) The amount a municipality may recover from the agent or other person is limited to the amount of that rent received by the agent or that person after written notice has been given by that municipality to that agent or person in terms of

subsection (2), less the commission due to that agent or person, subject to the Estate Agents Act, 1976 (Act No. 112 of 1976).

(4) The agent or other person must, on request by a municipality, furnish that municipality with a written statement specifying all payments for rent on the property received by that agent or person during a period determined by that municipality.

CHAPTER 4

GENERAL VALUATION OF RATEABLE PROPERTY

Part 1

General

General valuation and preparation of valuation rolls

27. (1) A municipality intending to levy a rate on property must in accordance with this Act cause –

- (a) a general valuation to be made of all rateable properties in a municipality subject to subsection (2); and
- (b) a valuation roll of all those properties to be prepared.

(2) Rateable properties mentioned in section 7(2)(a) must be included in the general valuation only to the extent that a municipality intends to levy a rate on those properties.

Date of valuation

28. (1) For the purposes of a general valuation, a municipality must fix a period that may not be more than nine months before the beginning of a financial year in which the roll is to be first implemented.

(2) The general valuation must reflect the value of properties, determined in terms of this Act, as at the date of valuation.

Commencement and period of validity of valuation rolls

29. (1) A valuation roll –

- (a)** takes effect from the beginning of a financial year following the completion of public inspection period required by section 42; and
- (b)** remains valid for that financial year or for one or more subsequent financial years as that municipality may decide, but in total not for more than four financial years.

(2) At the request of a municipality, the MEC for local government may extend the period for which a valuation roll remains valid to five financial years.

Part 2

Municipal valuers

Appointment of municipal valuers

30. (1) A municipality, before the valuation date, must appoint a municipal valuer.

(2) A person who is not an official of a municipality may be appointed as a municipal valuer only through an open, competitive and transparent process.

(3) The MEC for local government –

- (a) must monitor the appointment of municipal valuers; and
- (b) may take appropriate steps, including an intervention in terms of section 139 of the Constitution, if a municipality fails to comply with subsection (1).

Functions of municipal valuers

31. (1) A municipal valuer must in accordance with this Act –

- (a) prepare a valuation roll of all rateable properties in a municipality, in accordance with Chapter 6;
- (b) value such properties;
- (c) submit the valuation roll to a municipality within a prescribed period;
- (d) consider and decide objections to the valuation roll;
- (e) attend every meeting of an appeal board when that appeal board–
 - (i) hears an appeal against a decision of that valuer; or

- (ii) reviews a decision of that valuer;
- (f) prepare a supplementary valuation roll whenever this becomes necessary;
and
- (g) generally, provide the municipality with appropriate administrative support incidental to the valuation roll.

(2) A municipal manager may designate one or more officials of a municipality as assistant municipal valuers to assist a municipal valuer with the performance of any of the functions set out in subsection (1).

(3) If a municipal valuer is not an official of a municipality, a municipal valuer may appoint one or more assistant municipal valuers to assist a municipal valuer with the performance of any of the functions set out in subsection (1).

(4) When appointing assistant municipal valuers, a municipal valuer is not entitled to recover from a municipality the cost of such appointments otherwise than in terms of the agreement concluded between the valuer and the municipality following an open, competitive and transparent process referred to in section 30 (2).

Municipal partnerships

32. (1) A municipality may enter into an agreement with one or more other municipalities to appoint a single municipal valuer and to share the costs of preparing valuation rolls.

(2) Section 30(2) does not apply if the municipalities concerned agree to appoint an official of one of them as their municipal valuer.

Qualifications of municipal valuers

33. (1) A municipal valuer—

- (a) must be a person registered as a valuer or an associated valuer in terms of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000); and
- (b) may not be a councillor of that municipality.

(2) An assistant municipal valuer—

- (a) must be a person registered as a valuer, an associated valuer or a valuer in training in terms of the Property Valuers Profession Act, 2000; and
- (b) may not be a councillor of that municipality.

Prescribed declaration

34. Before assuming office, a municipal valuer or assistant municipal valuer must—

- (a) make the prescribed declaration before a commissioner of oaths regarding the performance of office; and
- (b) lodge a certified copy of such declaration with the municipal manager.

Right to inspect property

35. (1) Subject to section 14 of the Constitution which restricts or prohibits entry, a municipal valuer, assistant municipal valuer or a person authorised

by the municipal valuer may, between 07:30 am and 05:00 pm, enter upon and inspect any property that must be valued for purposes of this Act.

(2) A municipal valuer or assistant municipal valuer may—

- (a) make extracts from any document or information which that valuer reasonably believes is necessary for the valuation; and
- (b) in writing require the owner or occupier of the property, or the agent of the owner or occupier, to provide that valuer with written particulars regarding the property which the valuer believes are necessary for the valuation.

Conduct of valuers

36. (1) A municipal valuer or assistant municipal valuer—

- (a) must disclose to a municipality any personal or any private business interest that the valuer, or any spouse, parent, child, partner or business associate of that valuer may have in any property in that municipality, and must appoint an *ad hoc* valuer to perform the valuation relating to that property;
- (b) may not use the position as a municipal valuer or assistant municipal valuer for private gain or to improperly benefit another person; and
- (c) comply with the Code of Conduct set out in Schedule 2 of the Municipal Systems Act.

(2) A municipal valuer or assistant municipal valuer who is not an official of a municipality, must comply with the Code of Conduct as if that person is such an official.

(3) A municipal valuer or assistant municipal valuer who contravenes or fails to comply with subsection (1) is guilty of misconduct and subject to dismissal as municipal valuer or an assistant municipal valuer.

(4) A decision to dismiss a municipal valuer or assistant municipal valuer in terms of subsection (3) must be based on a finding by an enquiry conducted in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995).

(5) A municipal valuer or assistant municipal valuer who is not an official of a municipality who contravenes or fails to comply with subsection (1) is guilty of misconduct, and is subject to his or her contract of employment being rescinded.

Protection of confidential information

37. A municipal valuer or assistant municipal valuer may not disclose to any person any confidential information obtained in terms of this Act, and a person authorised by a municipal valuer to inspect property may not disclose to any person any information obtained during the inspection, except—

- (a) within the scope of that person's powers and duties in terms of this Act;
- (b) for the purpose of carrying out the provisions of this Act;
- (c) for the purpose of legal proceedings; or
- (d) in terms of an order of court.

CHAPTER 5

VALUATION CRITERIA

Valuation

38. (1) Property must be valued in accordance with generally recognised valuation practices, methods and standards, and the provisions of this Act.

(2) For the purposes of subsection (1)—

- (a) physical inspection of the property to be valued is optional; and
- (b) comparative, analytical and other systems or techniques may be used, including aerial photography and computer assisted mass appraisal systems or techniques.

(3) If the available market related data of any category of rateable property is not sufficient for the proper application of subsections (1) and (2), such property may be valued in accordance with any mass valuation system or technique approved by a municipality concerned and as may be appropriate in the circumstances, including a valuation system or technique based on predetermined bands of property value and the designation of properties to one of those bands on the basis of minimal market related data.

General basis of valuation

39. (1) Subject to the provisions of this Act, the improved value of property must be the amount the property would have realised if sold on the date of valuation in the open market by a seller to a buyer.

(2) In determining the value of a property—

- (a) the value of the property must reflect any licence or privilege relating to the property; and
- (b) the value of any improvement that was erected or is being used in contravention of a condition of title or any legislation, including a provision of a town planning or land use scheme, must be included as if the improvement was erected and is being used lawfully.

Valuation of property in sectional title schemes

40. (1) When valuing a property which is subject to a sectional title scheme, the valuer must determine the value of each sectional title unit in the scheme in accordance with section 39.

(2) The value determined for each sectional title unit must include the value of—

- (a) the undivided share in the common property apportioned to that unit in accordance with its participation quota;
- (b) any allocation to that unit of an exclusive use area; and
- (c) any other interest pertinent to the unit.

(3) In this section, a word or expression to which a meaning has been assigned in the Sectional Titles Act, has the same meaning.

CHAPTER 6

VALUATION ROLLS

Contents of valuation rolls

41. (1) A valuation roll must list all rateable property in the municipality, subject to section 27(2).

(2) The valuation roll must reflect the following particulars in respect of each property as at the date of valuation:

- (a) The registered or other description of the property;
- (b) the category in which the property falls;
- (c) the physical address of the property;
- (d) the size of the property;
- (e) the improved value of the property;
- (f) the name of the owner;
- (g) the postal address of the owner; and
- (h) any other prescribed particulars.

Public notice of valuation rolls

42. A municipal valuer must submit the valuation roll to a municipal manager, and that municipal manager must within 21 days of receipt of the roll –

- (a) publish in the prescribed form in the *Provincial Gazette*, and once a week for two consecutive weeks in a newspaper circulating in the municipality, a notice—
 - (i) stating that the roll is open for public inspection for a period stated in the notice, which may not be less than 30 days from the date of publication of the last notice;
 - (ii) inviting every person who wishes to lodge an objection in respect of any matter in, or omitted from, the roll to do so in the prescribed manner within the stated period; and
- (b) serve on every owner of property listed in the valuation roll a copy of the notice referred to in paragraph (a) together with an extract of the valuation roll pertaining to that owner's property .

Inspection of, and objections to, valuation rolls

43. (1) Any person may, within the period during which the valuation roll lies open for inspection—

- (a) inspect and make extracts from the roll during office hours; and
- (b) lodge an objection with the municipal manager against any matter appearing on or omitted from the roll.

(2) An objection in terms of subsection (1) (b) must be in relation to a specific individual property and not against the valuation roll as such.

(3) A municipal manager must assist an objector to lodge an objection if that objector is unable to read or write.

(4) A municipal council may also lodge an objection with the municipal manager concerned against any matter appearing on or omitted from the roll.

(5) A municipal manager must, without delay, submit all objections to the municipal valuer who must decide and dispose of the objections in terms of section 44.

(6) The lodging of an objection does not defer liability for payment of rates beyond the date determined for payment.

Processing of objections

44. A municipal valuer must—

- (a) consider objections in accordance with a procedure that may be prescribed;
- (b) decide objections on facts, including facts submitted by an objector, and, if the objector is not the owner, by the owner; and
- (c) adjust the valuation roll in accordance with the decisions taken.

Adjustments to valuation rolls

45. (1) Any adjustments made to a valuation roll in terms of section 44(c), takes effect on the effective date.

(2) If an adjustment in the valuation of a property affects the amount of the rate payable on that property, a municipal manager must—

- (a) calculate—
 - (i) the amount actually paid on the property since the effective date; and

- (ii) the amount payable in terms of the adjustment on the property since the effective date;
- (b) recover from, or repay to, the person liable for rates the difference determined in terms of paragraph (a).

Compulsory review of decisions of municipal valuer

46. If a municipal valuer adjusts any valuation following an objection by more than 10 per cent upwards or downwards—

- (a) a municipal valuer must give written reasons to a municipal manager; and
- (b) that municipal manager must submit to the relevant valuation appeal board that municipal valuer's decision, the reasons for the decision and all relevant documentation for review.

Notification of outcome of objections and furnishing of reasons

47. (1) A municipal valuer must notify, in writing, every person who has lodged an objection, and also the owner of the property concerned, if the objector is not the owner, of—

- (a) the valuer's decision; and
- (b) any adjustments made to the valuation roll following the decision.

(2) Within 30 days after such notification, such objector or owner may apply to that municipal valuer, in writing, for the reasons of the decision.

(3) The municipal valuer must, within 30 days after receipt of such application provide the reasons for the decision in writing, after payment of a prescribed fee.

Right of appeal

48. (1) An appeal to an appeal board against any decision may be done in the prescribed manner where—

- (a) an objector is not satisfied with a decision of a municipal valuer;
- (b) an owner of a property is affected by such a decision; or
- (c) the municipal council concerned is also affected by such a decision.

(2) An appeal by—

- (a) an objector must be lodged within 30 days of the date on which the written notice referred to in section 47(1) was posted to the objector, or if the objector has requested reasons in terms of section 47(2), within 14 days after the day on which the reasons were posted to the objector;
- (b) an owner must be lodged within 30 days of the date on which the written notice referred to in section 47(1) was posted to the owner, or if the owner has requested reasons in terms of section 47(2), within 14 days after the day on which the reasons were posted to the owner; or
- (c) a municipal council must be lodged within 30 days of the date on which the decision was taken.

(3) An appeal lodged in terms of this section does not defer a person's liability for payment of rates beyond the date determined for payment.

CHAPTER 7

VALUATION APPEAL BOARDS

Establishment of valuation appeal board

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

Functions

50. The functions of the appeal board are—
- (a) to hear and decide appeals against the decisions of a municipal valuer concerning objections to matters appearing on, or omitted from, the valuation roll of a municipality in the area for which it was established in terms of section 49; and
 - (b) to review decisions of a municipal valuer submitted to it in terms of section 46.

Composition

51. (1) The appeal board consists of—
- (a) a chairman who must be a person with legal qualifications and sufficient experience in the administration of justice; and

- (b) not less than two and not more than four other members with sufficient knowledge and experience of the valuation of immovable property and methods of valuation.

(2) The chairperson and members of the appeal board are appointed by the MEC for local government giving due consideration to the gender balance of the valuation appeal board.

(3) A person may be a member of more than one appeal board.

Disqualifications

52. (1) The following persons are disqualified from membership of the appeal board:

- (a) An unrehabilitated insolvent;
- (b) a person under curatorship;
- (c) a person declared to be of unsound mind by a court of the Republic; or
- (d) a person who, after 24 April 1994, was convicted of an offence and sentenced to imprisonment without an option of a fine for a period of not less than 12 months.

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

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

Term of office

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

Conditions of appointment

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

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

(3) The municipality or municipalities for which the appeal board was established in terms of section 49 must remunerate the members of an appeal board in accordance with their conditions of appointment and the directions of the MEC for local government.

Conduct of members

55. (1) A member of an appeal board—

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

(b) must disclose any personal or any private business interest that that member or any spouse, parent, child, partner or business associate of that member

may have in any matter before the appeal board and must withdraw from the proceedings of the appeal board, unless the board decides that the member's interest in the matter is trivial or not relevant, and announces its decision in public at the first available sitting of the board;

- (c) may not use the position or privileges of a member for private gain or to improperly benefit another person; or
- (d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of an appeal board.

(2) A member of an appeal board who contravenes or fails to comply with subsection (1) is guilty of misconduct.

Termination of membership

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

- (a) resigns;
- (b) is no longer eligible to be a member; or
- (c) is removed from office in terms of subsection (2).

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

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

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

Alternates

57. The MEC for local government may appoint alternate members of an appeal board, when a member—

- (a) is absent; or
- (b) has vacated office.

Meetings

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

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

(3) If the chairperson is absent or not available, or if there is a vacancy in the office of a chairperson, the other members of an appeal board may elect one of them to preside at the meeting or to act as chairperson.

Administrative assistance

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

(2) A municipality whose valuation roll is under consideration is liable for the costs of an appeal board.

Procedures

60. An appeal board may determine its internal procedures subject to any procedures that may be prescribed for its proceedings to dispose of appeals.

Decisions

61. A question before an appeal board is decided by a supporting vote of at least a majority of the members of an appeal board.

Decisions affecting valuation rolls

62. (1) A municipal valuer must adjust the valuation roll in accordance with the decisions taken by an appeal board.

(2) Any adjustments made to a valuation roll in terms of subsection (1) takes effect on the effective date.

(3) If an adjustment in the valuation of a property affects the amount of the rate payable on that property, a municipal manager must—

- (a) calculate—
 - (i) the amount actually paid on the property since the effective date; and
 - (ii) the amount payable in terms of the adjustment on the property since the effective date; and
- (b) recover from or repay to the person liable for rates on that property the difference determined in terms of paragraph (a).

Orders as to costs

63. When an appeal board gives its decision it may—

- (a) issue an order with regard to costs that do not exceed an amount equal to the costs between party and party calculated in accordance with the highest scale applicable in civil cases in a court established for a district in terms of the Magistrates' Courts Act, 1944 (Act 32 of 1944); and
- (b) order any person whose appeal or opposition to an appeal is, in its opinion, in bad faith, or frivolous, to compensate the municipality concerned in full or in part for the fees and allowances of appeal board members and other costs incurred by a municipality in connection with the appeal.

Committees of appeal boards

64. (1) The MEC for local government may authorise an appeal board to establish one or more committees to assist it in the performance of its duties.

(2) When appointing members to a committee an appeal board is not restricted to members of the appeal board.

(3) An appeal board—

- (a) must determine the duties of a committee;
- (b) must appoint a chairperson and other members of the committee;
- (c) may authorise a committee to co-opt advisory members within limits determined by the board;
- (d) may remove a member of a committee from office at any time; and
- (e) may determine a committee's procedure.

(4) An appeal board which established a committee may dissolve that committee at any time.

(5) Section 54, read with the necessary changes as the context may require, applies to the conditions of appointment of committee members who are not members of an appeal board.

Right to inspect

65. (1) Subject to the Constitution and any other law that restricts or prohibits entry, a member of, or any other person authorised by, an appeal board may, between 07:30 am and 05:00 pm, enter upon and inspect any property that is the subject of an appeal or review.

(2) A member of, or any other person authorised by, an appeal board may—

- (a) make extracts from any document or information which that member or person reasonably believes is necessary for the valuation; and

- (b) in writing, require the owner or occupier of that property, or the agent of the owner or occupier, to give that member or person written particulars regarding that property which that member or person reasonably believes is necessary for the valuation.

Protection of confidential information

66. A member of, or any other person authorised by, an appeal board to inspect property may not disclose to any person any information obtained during the inspection except—

- (a) within the scope of that person's powers and duties in terms of this Act;
- (b) for the purpose of carrying out the provisions of this Act;
- (c) for the purpose of legal proceedings; or
- (d) in terms of an order of court.

Powers of appeal boards

67. (1) An appeal board may—

- (a) by notice, summon a person to appear before it –
 - (i) to give evidence; or
 - (ii) to produce a document available to that person and specified in the summons;
- (b) call a person present at a meeting of an appeal board, whether summoned or not—
 - (i) to give evidence;

- (ii) to produce a document in that person's custody;
- (c) administer an oath or solemn affirmation to that person;
- (d) question that person, or have that person questioned; and
- (e) retain for three years a document produced in terms of paragraph (a)(ii) or (b)(ii).

(2) A person appearing before an appeal board, whether summoned or not, may at his or her own expense be assisted by a legal representative.

(3) (a) A person summoned to appear before an appeal board is entitled to witness fees paid to state witnesses in criminal proceedings in a court.

(b) Fees referred to in paragraph (a) must be paid by the relevant municipality.

(4) The law regarding privilege applicable to a witness summoned to give evidence in a criminal case in a court applies to the questioning of a person in terms of subsection (1).

Proceedings by, or against, appeal boards

68. (1) Legal proceedings by, or against an appeal board may be instituted in the name of the board.

(2) Any costs awarded in any legal proceedings against an appeal board must be borne by the municipality concerned.

CHAPTER 8

SUPPLEMENTARY VALUATIONS

Supplementary valuations

69. (1) A municipality may, whenever necessary, cause a supplementary valuation to be made and a supplementary valuation roll to be prepared in respect of any rateable property—

- (a) incorrectly omitted from the valuation roll;
- (b) included in a municipality after the last general valuation;
- (c) subdivided or consolidated after the last general valuation;
- (d) of which the improved value has substantially increased or decreased for any reason after the last general valuation; or
- (e) substantially incorrectly valued during the last general valuation.

(2) For the purposes of subsection (1), the provisions of Part 2 of Chapter 4, Chapters 5, 6 and 7, read with the necessary changes as the context may require, are applicable except that—

- (a) a municipal valuer who prepared the valuation roll may be appointed for the preparation and completion of the supplementary valuation roll; and
- (b) the supplementary valuation roll takes effect on the first day of the month following the completion of the public inspection period required by section 42.

(3) Supplementary valuations must be made at the date of valuation that applied to the last general valuation.

(4) A rate on rateable property for which a supplementary valuation roll was prepared takes effect from the date the supplementary roll takes effect.

CHAPTER 9**MISCELLANEOUS MATTERS****National monitoring and reporting**

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

(2) The investigation may include—

- (a) studies of the ratio of valuations to sales prices; and
- (b) other appropriate statistical measures to establish the accuracy of the valuations,

including the relative treatment of higher value and lower value property.

(3) Investigations may be undertaken for —

- (a) individual municipalities;
- (b) individual provinces; or
- (c) the country as a whole.

Regulations

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

- (a) any matter that may be prescribed in terms of this Act;
- (b) the preparation, contents, adoption, and enforcement of a municipal rates policy;

- (c) the manner in which rates referred to in section 18 must be phased in and the criteria that municipalities must take into account;
 - (d) the property register;
 - (e) the form and contents of any document referred to in this Act, including any—
 - (i) declaration;
 - (ii) authorisation;
 - (iii) valuation roll;
 - (iv) objection to a valuation;
 - (v) appeal against a decision of a municipal valuer; and
 - (vi) notice;
 - (f) the procedure that must be followed in connection with—
 - (i) appeals to an appeal board, including the procedure to lodge, oppose, adjudicate and dispose of such appeals; and
 - (ii) reviews by an appeal board of decisions of municipal valuers;
 - (g) the matters for which, or circumstances in which, the appeal board may, condone non-compliance with a procedural requirement of this Act;
 - (h) the giving of reasons by an appeal board for its decisions;
 - (i) the funding of appeal boards by municipalities;
 - (j) inquiries by investigating tribunals to establish alleged misconduct by, or alleged incompetence of, members of appeal boards;
 - (k) inquiries by municipalities to establish alleged misconduct by, or alleged incompetence of, municipal valuers or assistant municipal valuers;
 - (l) fees payable for information or the issue of documents in terms of this Act;
- and

(m) any matter which in the opinion of the Minister is necessary for the effective carrying out or furtherance of the objects of this Act.

(2) The Minister may by regulation in terms of subsection (1) declare a contravention of, or failure to comply with, any specific regulation an offence.

(3) Regulations in terms of subsection (1) may treat different categories of property, or different categories of property owners differently.

Offences

- 72.** (1) A person is guilty of an offence if that person—
- (a) contravenes section 36 (1)(a) or (b), 37, 55 (1)(b) or (c), or 66;
 - (b) wilfully obstructs, hinders or threatens a valuer or a member of or person authorised by a valuation appeal board when the valuer, member or person performs a duty or exercises a power in terms of this Act;
 - (c) wilfully gives information in an objection in terms of section 43(1)(b) or in an appeal in terms of section 48 which is false in any material respect;
 - (d) after having been summoned in terms of section 67 fails—
 - (i) to be present at a meeting of the valuation appeal board at the time and place specified in the summons;
 - (ii) to remain present until excused; or
 - (iii) to produce a document specified in the summons;
 - (e) after having been called in terms of section 67 refuses—
 - (i) to appear;

- (ii) to answer any question except where the answer might incriminate him or her; or
- (iii) to produce a document in that person's custody; or
- (f) fails to comply with a request in terms of section 26(4) to give information or wilfully supplies false or incorrect information in any material respect.

(2) A valuer is guilty of an offence if that valuer is grossly negligent in the exercise of the functions of office set out in section 31.

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

(4) A person convicted of an offence in terms of section 71(2) is liable to a fine or imprisonment not exceeding six months.

Application of Act when in conflict with other laws

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

Transitional arrangement: Valuation and rating under prior legislation

74. (1) Municipal valuations and property rating conducted before the commencement of this Act by any municipality remain valid to the extent that they comply with provincial and national legislation that existed before the commencement of this Act.

(2) Any reference in prior provincial legislation regulating property rates or valuations to a "local authority," "local council," "metropolitan local council," "rural council" or other unit of local government is deemed to refer to the metropolitan municipality or local municipality within whose jurisdiction a property is located.

(3) In the case of District Management Areas, any reference in prior provincial legislation regulating property rates or valuations to a "local authority" or other unit of local government is deemed to refer to the successor district municipality within whose jurisdiction a property is located.

Transitional arrangement: Use of existing valuation rolls

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

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

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

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

Transitional arrangement: Liability of bodies corporate of sectional title schemes

76. (1) Section 9 does not apply in respect of rates levied against a valuation roll prepared before the commencement of this Act.

(2) Section 22 does not affect the liability of a body corporate of a sectional title scheme to a municipality, nor of the owner of a sectional title unit to the body corporate, for property rates levied against a valuation roll prepared before commencement of this Act.

Amendment of section 115 of Act 32 of 2000

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

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

Amendment and repeal of legislation

78. The legislation specified in the Schedule is—

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

Short title and commencement

79. This Act is called the Local Government: Property Rates Act, 2003, and comes into operation on a date to be determined by the President by proclamation in the *Gazette*.

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

No.	Title, No. and Year of Law	Extent of amendment or repeal
1.	City of Kimberley Municipal Ordinance, 1913 (Ordinance 42 No. 4 of 1913)	Section 6
2.	Municipal Ordinance, 1974 (Ordinance No. 20 of 1974)	Part 2 of Chapter VIII
3.	Municipal Amendment Ordinance, 1976 (Ordinance No. 15 of 1976)	Section 5
4.	Divisional Councils Ordinance, 1976 (Ordinance No. 18 of 1976)	Part 2 of Chapter VIII
5.	Municipal Second Amendment Ordinance, 1978 (Ordinance No. 12 of 1978)	Sections 10 and 11
6.	Divisional Councils Amendment Ordinance, 1978 (Ordinance No. 18 of 1978)	Sections 9 and 10
7.	Municipal Amendment Ordinance, 1979 (Ordinance No. 7 of 1979)	Sections 16 and 17
8.	Divisional Councils Second Amendment Ordinance, 1979 (Ordinance No. 14 of 1979)	Sections 19, 20 and 21
9.	Municipal Amendment Ordinance, 1980 (Ordinance No. 17 of 1980)	Sections 7 to 11
10.	Divisional Councils Second Amendment Ordinance, 1980 (Ordinance No. 19 of 1980)	Sections 8 to 15
11.	Municipal Second Amendment Ordinance, 1980 (Ordinance No. 23 of 1980)	Section 1
12.	Divisional Councils Third Amendment Ordinance, 1980 (Ordinance No. 26 of 1980)	Section 1
13.	Divisional Councils Amendment Ordinance, 1981 (Ordinance No. 3 of 1981)	Sections 3 and 4
14.	Municipal Amendment Ordinance, 1981 (Ordinance No. 10 of 1981)	Section 2
15.	Municipal Amendment Ordinance, 1982 (Ordinance No. 6 of 1982)	Section 1
16.	Divisional Councils Amendment Ordinance, 1982 (Ordinance No. 11 of 1982)	Section 3
17.	Municipal Second Amendment Ordinance, 1982 (Ordinance No. 16 of 1982)	Section 4

No.	Title, No. and Year of Law	Extent of amendment or repeal
18.	Changing of the Financial Year of Local Authorities Ordinance, 1983 (Ordinance No. 4 of 1983)	Section 4
19.	Municipal Second Amendment Ordinance, 1983 (Ordinance No. 16 of 1983)	Section 7
20.	Divisional Councils Second Amendment Ordinance, 1983 (Ordinance No. 21 of 1983)	Section 6
21.	Municipal Amendment Ordinance, 1986 (Ordinance No. 3 of 1986)	Sections 1, 2 and 3
22.	Divisional Councils Amendment Ordinance, 1986 (Ordinance No. 4 of 1986)	Sections 1, 2 and 3
23.	Valuation Act, 1978 (Act No.30 of 1978) Transkei	The whole
24.	Municipalities Act, 1979 (Act No. 25 of 1979)	Part 2 of Chapter 8
25.	Municipal Act, 1987 (Act No. 17 of 1987), Ciskei	Part 2 of Chapter 10
26.	Valuation Ordinance, 1994 (Ordinance No. 26 of 1994)	The whole
27.	Proclamation No. 147 of 1993	The whole
28.	Proclamation No 148 of 1993	The whole

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

No.	Title, No. and year of law	Extent of amendment or repeal
1.	Glencoe Rate Exemption Ordinance, 1941 (Ordinance No. 19 of 1941)	The whole
2.	Development and Services Board Ordinance, 1941 (Ordinance No. 20 of 1941)	Sections 8, 17(1)(d), (d)bis, (d)ter
3.	Development and Services Board Amendment Ordinance, 1942 (Ordinance No. 12 of 1942)	Section 6
4.	Pietermaritzburg Extended Powers Ordinance, 1942 (Ordinance No. 20 of 1942)	Sections 3 and 11
5.	Local Health commission (Public Health Areas Control): Amendment Ordinance, 1954 (Ordinance No. 14 of 1954)	Section 2(1) and 4(1)(a) and (2)
6.	Weenen Town Board Water Rates Ordinance, 1957 (Ordinance No. 22 of 1957)	The whole
7.	Incorporated Area Rates Adjustment Ordinance, 1958 (Ordinance No. 5 of 1958)	The whole
8.	Local Health Commission (Public Health Areas Control): Amendment Ordinance, 1954 (Ordinance No. 5 of 1967)	Section 9(a) and (b)
9.	Local Health Commission (Public Health areas Control): Amendment Ordinance, 1971 (Ordinance No. 51 of 1971)	Section 2
10.	Local Authorities Ordinance, 1974 (Ordinance No. 25 of 1974)	Part 6 of Chapter X
11.	Local Authorities Amendment Ordinance, 1975 (Ordinance No. 22 of 1975)	Section 2
12.	Local Authorities Amendment Ordinance, 1976 (Ordinance No. 7 of 1976)	Sections 3 and 4
13.	Durban Extended Powers Consolidated Ordinance, 1976 (Ordinance, 1976 (Ordinance No.18 of 1976)	Chapter X and XI
14.	Local Authorities Amendment Ordinance, 1977 (Ordinance No. 10 of 1977)	Sections 5 and 6
15.	Durban Extended Powers: Amendment Ordinance, 1977 (Ordinance No. 13 of 1977)	Section 3, 4 and 5
16.	Local Authorities Amendment Ordinance, 1978 (Ordinance No. 15 of 1978)	Sections 6, 7 and 8
17.	Development and Service Board Second Amendment Ordinance, 1978 (Ordinance No. 21 of 1978)	Section 1 and 2

No.	Title, No. and year of law	Extent of amendment or repeal
18.	Local Authorities Second Amendment Ordinance, 1978 (Ordinance No. 29 of 1978)	Sections 3 and 4
19.	Local Authorities Third Amendment Ordinance, 1978 (Ordinance No. 39 of 1978)	Section 2
20.	Local Authorities Second Amendment Ordinance, 1979 (Ordinance No. 14 of 1979)	Sections 2 and 3
21.	Durban Extended Powers: Amendment Ordinance, 1979 (Ordinance No. 15 of 1979)	Section 14, 15 and 16
22.	Pinetown Extended Powers Ordinance, 1979 (Ordinance No. 17 of 1979)	Section 3
23.	Local Authorities Fourth Amendment Ordinance, 1979 (Ordinance No. 24 of 1979)	Section 8
24.	Local Authorities Amendment Ordinance, 1980 (Ordinance No. 8 of 1980)	Sections 2(1), 3 and 4
25.	Durban Extended Powers: Amendment Ordinance, 1980 (Ordinance No. 18 of 1980)	Section 6 and 7
26.	Local Authorities Second Amendment Ordinance, 1980 (Ordinance No. 27 of 1980)	Sections 7 and 8
27.	Durban Extended Powers: Amendment Ordinance, 1981 (Ordinance No. 15 of 1981)	Section 6
28.	Local Authorities Second Amendment Ordinance, 1981 (Ordinance No. 20 of 1981)	Section 2
29.	Local Authorities Amendment Ordinance, 1982 (Ordinance No. 3 of 1982)	Section 1
30.	Local Authorities Second Amendment Ordinance, 1982 (Ordinance No. 5 of 1982)	Sections 7 to 11
31.	Durban Extended Powers: Amendment Ordinance, 1982 (Ordinance No. 12 of 1982)	Section 4
32.	Local Authorities Third Amendment Ordinance, 1982 (Ordinance No. 16 of 1982)	Section 4
33.	Local Authorities Amendment Ordinance, 1983 (Ordinance No. 5 of 1983)	Sections 4 to 9
34.	Pietermaritzburg Loan and Extended Powers Ordinance, 1983 (Ordinance No. 8 of 1983)	Section 12
35.	Local Authorities Amendment Ordinance, 1984 (Ordinance No. 4 of 1984)	Section 1
36.	Local Authorities Fourth Amendment Ordinance, 1984 (Ordinance No. 9 of 1984)	Section 1
37.	Durban Extended Powers: Amendment Ordinance, 1984 (Ordinance No. 14 of 1984)	Section 5, 6(a) and (b), and 7
38.	Local Authorities Amendment Ordinance, 1985 (Ordinance No. 9 of 1985)	Sections 35 to 38
39.	Penalties Amendment Ordinance, 1986 (Ordinance No. 8 of 1986)	Paragraph X(ix) of the Schedule
40.	Local Authorities Amendment Ordinance, 1986 (Ordinance No. 11 of 1986)	Sections 2, 3 and 4
41.	Proclamation No. 4 of 1988	Paragraphs 29, 30 and 31
42.	Proclamation No. 16 of 1989	Paragraphs 5 to 8
43.	Proclamation No. 12 of 1990	Paragraphs 2, 3 and 4
44.	Proclamation No. 27 of 1990	Section 1
45.	Proclamation No. 54 of 1990	The whole
46.	Proclamation No. 55 of 1990	Paragraph 8

No.	Title, No. and year of law	Extent of amendment or repeal
47.	Proclamation No. 55 of 1991	Paragraphs 8(1) and 9 to 12
49.	Proclamation No. 56 of 1992	Paragraphs 2 and 3
49.	Proclamation No. 1 of 1994 (which was referred to 151 Ordinances)	
50.	Proclamation No. 4 of 1994	Paragraphs 5(1), 7 and 8(2)
51.	Proclamation No. 6 of 1994	Paragraph 6

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

No.	Title, No. and year of law	Extent of amendment
1.	Local Government Ordinance, 1962 (Ordinance No. 8 of 1962)	Parts IV and V of Chapter XI
2.	Local Government Amendment Ordinance, 1963 (Ordinance No. 13 of 1963)	Section 2
3.	Local Government Amendment Ordinance, 1966 (Ordinance No. 15 of 1966)	Sections 7 to 10
4.	Local Government Amendment Ordinance, 1967 (Ordinance No. 6 of 1967)	Section 2
5.	Local Government Amendment Ordinance, 1968 (Ordinance No. 7 of 1968)	Section 5
6.	Local Government Further Amendment Ordinance, 1968 (Ordinance No. 14 of 1968)	Section 1
7.	Local Government Amendment Ordinance, 1971 (Ordinance No. 11 of 1971)	Section 10
8.	Local Government Amendment Ordinance, 1972 (Ordinance No. 6 of 1972)	Section 14
9.	Local Government Further Amendment Ordinance, 1974 (Ordinance 13 of 1974)	Section 3
10.	Local Government Amendment Ordinance, 1975 (Ordinance No. 3 of 1975)	Section 4
11.	Local Government Further Amendment Ordinance, 1977 (Ordinance No. 9 of 1977)	Sections 5 and 6
12.	Local Government Third Amendment Ordinance, 1977 (Ordinance No. 14 of 1977)	Section 5
13.	Local Government Amendment Ordinance, 1979 (Ordinance No. 2 of 1979)	Section 7
14.	Local Government Amendment Ordinance, 1982 (Ordinance No. 7 of 1982)	Section 1
15.	Local Government Further Amendment Ordinance, 1982 (Ordinance No. 14 of 1982)	Section 5
16.	Local Government Amendment Ordinance, 1985 (Ordinance No. 6 of 1985)	Section 1
17.	Local Government Amendment Ordinance, 1986 (Ordinance No. 19 of 1986)	Sections 7 and 8
18.	Proclamation No. 18 of 1988	Paragraphs 40(b) and 43
19.	Proclamation No. 5 of 1991	Paragraphs 3 and 4
20.	Proclamation No. 86 of 1991	Paragraphs 6 and 7
21.	Proclamation No. 90 of 1993	Paragraph 12
22.	Proclamation No. 136 of 1993	Paragraphs 7 to 25
23.	Proclamation No. 15 of 1996	Paragraph 1

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

No.	Title, No. and year of law	Extent of amendment or repeal
1.	Local Government Ordinance, 1939 (Ordinance No. 17 of 1939)	Section 50
2.	Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943)	Sections 26 <i>bis</i> and 29
3.	Local Government Amendment Ordinance, 1944 (Ordinance No. 19 of 1944)	Section 3
4.	Peri-Urban Areas Health Board Amendment Ordinance, 1945 (Ordinance No. 21 of 1945)	Section 2
5.	Peri-Urban Areas Health Board Amendment Ordinance, 1948 (Ordinance No. 24 of 1948)	Section 10
6.	Local Government Amendment Ordinance, 1965 (Ordinance No. 24 of 1965)	Section 3
7.	Local Government Amendment Ordinance, 1966 (Ordinance No. 24 of 1966)	Section 5
8.	Local Government Amendment Ordinance, 1968 (Ordinance No. 15 of 1968)	Section 4
9.	Transvaal Board for the Development of Peri-Urban Areas Health Board Amendment Ordinance, 1970 (Ordinance No. 9 of 1970)	Section 4
10.	Transvaal Board for the Development of Peri-Urban Areas Health Board Amendment Ordinance, 1976 (Ordinance No. 12 of 1976)	Section 2
11.	Local Authorities Rating Ordinance, 1977 (Ordinance No. 11 of 1977)	The whole, except section 48
12.	Local Authorities Rating Amendment Ordinance, 1978 (Ordinance No. 10 of 1978)	The whole
13.	Local Government Amendment Ordinance, 1978 (Ordinance No. 16 of 1978)	Sections 4 and 12
14.	Local Government Amendment Ordinance, 1980 (Ordinance No. 13 of 1980)	Section 2
15.	Local Authorities Rating Amendment Ordinance, 1980 (Ordinance No. 15 of 1980)	The whole
16.	Local Authorities Rating Amendment Ordinance, 1981 (Ordinance No. 7 of 1981)	The whole
17.	Local Authorities Rating Amendment Ordinance, 1982 (Ordinance No. 7 of 1982)	The whole
18.	Local Authorities Rating Amendment Ordinance, 1983 (Ordinance No. 10 of 1983)	The whole
19.	Local Authorities Rating Amendment Ordinance, 1984 (Ordinance No. 12 of 1984)	The whole
20.	Promotion of Local Government Act, 1984 (Act No. 24 of 1984)	
21.	Local Authorities Rating Amendment Ordinance, 1985 (Ordinance No. 17 of 1985)	The whole
22.	Proclamation No. 46 of 1990	The whole
23.	Proclamation No. 3 of 1992	Paragraph 5
24.	Proclamation No. 17 of 1994	The whole

PART 5
OTHER LAWS

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

MEMORANDUM ON THE OBJECTS OF THE PROPERTY RATES BILL, 2003

1. BACKGROUND

1.1 Property rates represent a major revenue source for local government, and is as such the main source of discretionary tax revenue for municipalities. Property rates are especially important in urban areas, and historically, rates were levied only in towns and cities. Rating was, historically, done differently in the various provinces. Each of the former four provinces had their own legislation and their own system of valuation and rating. As noted in the White Paper on Local Government, a simpler and more uniform system is needed as part of local government reform.

1.2 Municipalities derive their power to levy property rates directly from the Constitution (See in this regard section 229 (1) of the Constitution). "Property" is not defined in the Constitution and is construed in context to mean land including any immovable property on or in the land or under the surface of the land. It includes all land in the Republic as the whole of the territory of the Republic is covered by municipalities. The constitutional power conferred on municipalities to levy property rates though, is not an unfettered power, and the Constitution does not allow municipalities to exercise this power solely within their own discretion. Firstly, section 229 (2) (a) restrains municipalities from exercising their fiscal powers in a way that would materially and unreasonably prejudice –

- (a) national economic policies;
- (b) economic activities across municipal boundaries; or
- (c) the national mobility of goods, services, capital or labour.

And secondly, section 229 (2) (b) allows national legislation to regulate the exercise of this power by municipalities.

1.3 The Property Rates Bill is accordingly not the source of the power in terms of which municipalities may levy property rates, but an instrument to give effect to section 229 (2) (a) and (b). As such it establishes a uniform system of regulation and circumscribes the limits that are necessary to avoid material and unreasonable prejudice to national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital and labour.

1.4 The Bill regulates and limits the fiscal powers of municipalities in such a way as to achieve the overall White Paper objective of thoroughly reforming the current system of property taxation with a view to:

- supporting sustainable local government by providing a stable and buoyant revenue source within the discretionary control of municipal councils;
- assisting municipalities in broadening their tax base to property outside former municipal boundaries, and providing transitional rules to phase in property rates in these areas; and
- providing uniform national rules regarding valuation and appeals, rating policy, and rate setting.

2. OBJECTS OF THE BILL

2.1.1. Chapter 1 of the Bill defines the terminology used in the Bill.

2.2.2 Chapter 2 of the Bill deals with rating. It confirms the constitutional power of municipalities to levy rates in their respective areas, but to avoid a duplication of

rates in the areas of district municipalities, it vests the rating power in local municipalities. The Bill does, however, allow district municipalities to levy rates in district management areas, i.e. areas for which no local municipality has been established.

2.2.3 Rates on site only or improvements only are disallowed. The rate may either be a rate based on the improved value of property or a flat rate for property within a specified valuation band, provided the band is below a prescribed valuation limit. Flat rates would accordingly only apply to areas where valuations are at the lower end of the scale.

2.2.4 Echoing the duty imposed on municipalities by the Municipal Systems Act to adopt a tariffs policy to govern its tariffs decisions, the chapter requires councils to levy rates in accordance with a rates policy which they must adopt and regularly review. The process for the adoption of a rates policy must substantially be the same as that determined by the Municipal Systems Act for a tariffs policy, and accordingly includes community participation in the decision-making process.

2.2.5 In terms of chapter 2 rates, with certain exceptions, must be imposed on all rateable property within the municipality. The aim is that municipalities should not be selective in targeting properties for rating purposes. This provision obviously serves transparency, but is also necessary to establish a clear perspective of a municipality's potential revenue capacity in terms of property tax. Where there is a need to alleviate the tax burden, for instance on the poor, the Bill envisages that this should be effected by way of tax exemptions, rebates and reductions. All

exemptions, rebates and reductions must be in accordance with an open and accessible process and disclosed in the annual budget.

2.2.6 Chapter 2 allows municipalities within certain limits to differentiate between categories of properties when levying rates. It is proposed that a municipality may not levy:

- different rates on different categories of residential properties;
- levy a rate on non-residential property that exceeds a prescribed ratio to the rate on residential properties; or
- levy rates which unreasonably discriminate between categories of commercial properties, industrial properties or agricultural properties.

2.2.7 In line with current practice the Bill provides for rates to be adopted by a municipality by council resolution and to be promulgated by notice conspicuously displayed at municipal offices after due notice in the public media.

2.2.8 Chapter 2 also endeavours to give practical effect to the exclusions contained in section 229(2)(a) of the Constitution in terms of which a municipality may not exercise its fiscal powers in a way that materially and unreasonably prejudices national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital and labour. In this regard the chapter disallows rates on the following categories of property:

- public service infrastructure, such as national and provincial roads, power lines running across municipal boundaries, etc.;

- Sea shores, territorial waters of the Republic, Prince Edwards Islands and islands of which the state is the owner;
- mineral rights; and
- a category of state property identified by the Minister of Finance by notice in the *Gazette* in respect of which a rate would materially and unreasonably prejudice national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital and labour.

2.2.9 To discourage unreasonable hikes in property rates, chapter 2 empowers the Minister, acting with the concurrence of the Minister of Finance, to set a limit, by notice in the *Gazette*, on the percentage by which rates on property may be increased annually. It also provides for the phasing in of rates on newly rateable property or on property of which the owner is a land reform beneficiary. Chapter 2 in conclusion provides for additional rates to be levied in special rating districts to fund improvements exclusively in that district.

2.3.1 Chapter 3 of the Bill regulates liability for property tax and states the general principle that the owner of a property must pay the rates on the property. Joint owners are jointly and severally liable for rates, but in the case of a sectional title scheme the owner of each sectional title unit must pay the rate on the unit. The body corporate in sectional schemes would no longer be responsible for collecting and payment of rates.

2.3.2 Whilst chapter 9 of the Municipal Systems Act, which prescribes a municipal credit control and debt collection system, would generally be applicable to the

collection of rates, the Bill contains a number of additional provisions. These provisions relate to the method and time of payment of rates, the obligation on the municipality to furnish accounts and the recovery of arrears from tenants and occupiers and absent owners.

2.4.1 Chapter 4 of the Bill provides for the preparation and implementation of a valuation roll of rateable property in a municipality. The aim of this and following chapters was mainly to simplify the existing, extremely cumbersome, process of establishing valuation rolls.

2.4.2 In terms of the new process each municipality must appoint a municipal valuer to value all rateable properties in the municipality, to prepare the valuation roll and to submit the roll to the council. Two or more municipalities may by agreement appoint the same person as municipal valuer. A person who is not a municipal official may be appointed as municipal valuer only through an open, competitive and transparent process. A municipal valuer must be a person registered as a valuer in terms of legislation regulating the valuers profession, but a councillor may not be appointed. Municipal valuers will replace the existing valuation boards.

2.4.3 Chapter 4 provides in addition for the appointment of assistant municipal valuers, the conduct of municipal valuers, their powers and the protection of confidential information.

2.4.4 A valuation roll becomes effective as from the start of a financial year and remains valid for a period of up to four years.

2.5.1 Chapter 5 provides for the criteria in terms of which property must be valued.

The general principle is that property must be valued according to its market value, i.e. the amount the property would realise if sold in the open market by a willing seller to a willing buyer. The techniques that may be used must accord with generally recognised valuation practices, methods and standards, and also the provisions of the Bill. These include aerial photography and computer assisted mass appraisal systems.

2.5.2 In the case of sectional title schemes, each sectional title unit must be separately valued.

2.6.1 Chapter 6 regulates the contents and processing of valuation rolls. It requires all rateable property to be listed on the roll, together with relevant details about each property and the owner.

2.6.2 Once a valuation roll has been completed and submitted by the municipal valuer to the municipality, the municipal manager must without delay give notice in the media that the roll is open for public inspection and that any person who wishes to lodge an objection against any entry in the roll may do so within a stated period. All objections received must then be considered and decided by the municipal valuer. If the municipal valuer agrees with an objection, the valuation roll must be adjusted accordingly. If an adjustment in the valuation of a property is more than 10 per cent upwards or downwards, the matter must be referred to the valuation appeal board for review.

2.6.3 The lodging of an objection does not defer liability for payment of rates, but if an adjustment to the valuation roll following a successful objection affects the amount of the rate payable by the owner, the municipal manager must calculate the difference and either repay or recover the difference from the owner.

2.6.4 The municipal valuer's decision on any objection is not final, and an objector who is not satisfied with the decision, a property owner who is affected by the decision or even the municipal council may appeal against the decision to the valuation appeal board.

2.7.1 Chapter 7 provides for the establishment of valuation appeal boards. It is proposed that the function to establish these appeal boards be vested in the MEC for local government in a province. The MEC may establish as many boards as may be needed but at least one in each metropolitan municipality and one in each district municipality.

2.7.2 Appeal boards are established, firstly, to decide appeals against the decisions of municipal valuers when an objection has been lodged and, secondly, to review decisions of municipal valuers where a valuation has been adjusted upwards or downwards by more than 10 per cent.

2.7.3 An appeal board must consist of a chairman who must be a person with legal qualifications and not less than two or more than four other members with sufficient

knowledge and experience of the valuation of immovable property and methods of valuation. The municipalities would be liable for the cost of valuation appeal boards.

2.7.4 As is the case with objections, an appeal would not defer payment of rates in accordance with the valuation as specified in the valuation roll, but if a successful appeal affects the amount of the rate payable, the municipal manager must calculate any over or under payment and either repay the over payment to or recover the under payment from the owner.

2.8 Chapter 8 provides for, but at the same time strictly controls, supplementary valuations.

2.9.1 Included in chapter 8 are miscellaneous matters pertaining to the Bill, such as to monitor municipal valuations, to promulgate regulations in order to enhance the effectiveness of the Bill and to render certain actions criminally punishable.

2.9.2 It also contains transitional arrangements which would, for instance, enable municipalities to use existing valuation rolls up to 4 years from the promulgation of this Bill.

3. CONSULTATION

The Bill was published for public comment and appropriately adjusted in view of comments received. The following stakeholders were also consulted:

Department of Housing;

Department of Land Affairs;

Department of Minerals and Energy;
Department of Public Enterprises;
Department of Public Works;
Department of Water Affairs and Forestry;
Financial and Fiscal Commission;
National Economic Development and Labour Council;
National House of Traditional Leaders;
National Treasury;
South African Council of Valuers;
South African Institute of Valuers; and
South African Local Government Association (SALGA).

4. FINANCIAL IMPLICATIONS FOR STATE

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

- * Where the state property is located;

- * whether or not they provide rebates to or exemptions on state property; and
- * the actual rate municipalities levy on state property.

The impact will be gradual, because the Bill contains mandatory phasing in provisions. The financial implications for local government will be quite positive. With a broadened tax base, municipal revenue potential will be significantly enhanced.

5. PARLIAMENTARY PROCEDURE

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

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