

SPECIAL ISSUE

Kenya Gazette Supplement No. 13 (Nyandarua County Acts No. 7)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NYANDARUA COUNTY ACTS, 2017

NAIROBI, 23rd May, 2017

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

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THE NYANDARUA COUNTY RATING ACT, 2017

No. 7 of 2017

Date of Assent: 16th May, 2017

Date of Commencement: 23rd May, 2017

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THE NYANDARUA COUNTY RATING ACT, 2017

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

ENACTED by the County Assembly of Nyandarua as follows—

PART I—PRELIMINARY**Short title**

1. This Act may be cited as the Nyandarua County Rating Act, 2015 and shall come into operation upon publication in the *Gazette*.

Interpretation

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

“agricultural land” means all land which is used for the purposes of agriculture, not being land which, under any law relating to physical planning, is proposed for use for the purposes other than agriculture;

“agricultural rental value rate” means a rate levied on the annual value of the agricultural land;

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

- (a) in the case of land which is held on a lease from the Government for a term of 99 years and in respect of which an annual rent has been reserved by such lease, the annual rent so reserved; and
- (b) in the case of any other land, the annual rent which might reasonably have been reserved if such land has been held on a lease from the Government for a term of 99 years commencing from the year 1960;

“assessment for improvement rate”, in relation to land, means the residual amount found by deducting the value of the unimproved land from the value of the land;

“department” means the county department responsible for lands as may be established by the governor;

“executive member” means the County Executive Committee Member responsible for lands;

“improvements”, in relation to land, means all work done or material used on, in or under that land by the expenditure of money or labour in so far as the effect of the work done or material used is to increase the value

of the land, but does not include machinery, whether fixed to the soil or not;

“improvement rate” means a site value rate in combination with a rate on the assessment for improvement rate as appearing in a valuation roll or supplementary valuation roll;

“land” has the meaning assigned to it in the Constitution of Kenya;

“land registrar” means the Lands Registrar appointed under the Lands Registration Act, 2012;

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

“rateable property” has the meaning assigned to it in the Valuation for Rating Act;

“rating area” means, in relation to any method of rating or rate adopted or levied under this Act, the area in respect of which such method of rating or rate may be adopted or levied;

“rating” means—

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

“site value rate” means a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation roll; and

“valuation roll” means any valuation roll prepared under the valuation for Rating Act and includes a supplementary valuation roll.

Objects of this Act

3. The objective of this Act is to provide for a legal framework to—

- (a) provide the County Government with powers to set, assess and collect rates pursuant to Article 209(3) of the Constitution;
- (b) ensure efficiency, accountability and transparency in administration of rating of land;
- (c) ensure equity and fairness in land rating system;
- (d) ensure compliance with payment of rates related to land; and
- (e) to establish clarity, certainty and sustainability in rating matters.

PART II—ADMINISTRATION**Functions of the Department**

4. The Department shall be responsible for—
- (a) subject to the approval by the County Assembly, imposing rates on rateable properties;
 - (b) determining the applicable method of area rating;
 - (c) provide general administration of the implementation of this Act; and
 - (d) advising the Executive Member on any matter related to the implementation of this Act.

Staff

5. The County Public Service Board shall in consultation with the Executive Member ensure that the Department is resourced with adequate staff for effective carrying out of responsibilities under this Act.

PART III—RATING**Levying of rates**

6. (1) There shall be levied rates on any rateable property in the county based on the Valuation Roll prepared under the Valuation for Rating Act Cap. 266.

(2) A rateable owner shall be responsible for paying the rates levied under this Act.

(3) The applicable rates in respect of the rateable property shall be in accordance with the schedule of rates prepared under subsection (4) below.

(4) The Executive Member responsible for matters relating to finance with the approval of the County Assembly shall, within six months after the preparation of each Valuation Roll, prepare the schedule of rates described under subsection (3) which shall be a Schedule under this Act.

(5) Members of the public shall be involved in preparation of the schedule of rates under subsection (4) and their views shall be taken into consideration.

(6) The Executive Member responsible for matters of finance shall submit the schedule of rates prepared under subsection (4) to the County Assembly for approval.

Forms of rating

7. (1) For the purposes of levying rates under this Act, the Department may, subject to the approval by the County Assembly, adopt any of the following forms of rating—

- (a) an area rate in accordance with section 8 of this Act;
- (b) an agricultural rental value rate; or
- (c) a site value rate or a site value rate in combination with an improvement rate in accordance with section 9 of this Act.

(2) Where any one of the forms of rating under subsection (1) has been adopted in respect of any rating area, no other form of rating under this section shall, at the same time, be adopted in respect of that area.

(3) The Department shall, upon the approval of the applicable form of rating in respect to a rating area under subsection (1), publish a notice to the effect of the approval in at least two newspapers with wide circulation in the country.

Alternative methods of area rating

8. (1) Subject to subsection (2), the Department may, with the approval of the County Assembly, adopt one or more of the following methods of rating—

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

(2) A rate levied under this section shall be referred to as an area rate.

(3) The Department may adopt different methods of area rating for different parts of the county and may from time to time vary the method or methods adopted, and adopt in relation to any rating area the methods of area rating referred to in subsection (1) in the following manner—

- (a) method (a) or method (b) or method (c) as alternative methods which are mutually exclusive;
- (b) method (d) or method (e), or both, in addition to method (a) or method (b), but not in addition to method (c); or
- (c) method (f) shall not be combined with any other method of area rating.

Site value and improvement rates

9. A site value rate may be levied in combination with an improvement rate;

Provided that—

- (i) any site value rate shall not, without the approval of the county assembly, exceed one per centum of the unimproved value of land; and
- (ii) any rate higher than one per centum must be approved by County Executive Committee and County Assembly before imposition.

Supplementary rate

10. The Department may levy a supplementary rate for any financial year if it deems it is necessary to do so: provided that where a site value rate or an improvement rate is levied no such supplementary rates which, when added to the rate or rates previously levied in the same financial year, would exceed either of the limits laid down in the provisos to section 9 (i) and (ii) and the approval of the County Assembly.

Uniformity of rate

11. Any site value rate or improvement rate levied under this Act shall be a rate at a uniform percentage of the rateable value of each rateable property in the county.

Equitable distribution of rating methods

12. The Department shall, while adopting any method of rating under this Act ensure that the rating methods are equitably distributed across all rating areas.

Due date for rates

13. (1) Rates shall be payable for every financial year and become due on the first day of January and not later than the last day of March of the same year.

(2) The Department shall publish in a newspaper of national circulation to all rateable owners, a notice of not less than thirty days indicating the date the rates become payable.

Payment of rates and interest

14. (1) Upon the Department issuing a notice under section 13 (2), it shall be the duty of the rateable owner to pay the rate within the stipulated time.

(2) Any rates that remain unpaid within the stipulated time shall attract a charge of simple interest at the rate of one and a half per centum per month.

(3) Notwithstanding sub-section (2), the interest charged shall not exceed the principle amount of the rate owing.

Discount of rates

15. The Department may allow a discount of not more than five per cent of the amount payable on any rate paid on or before the day on which such rate becomes payable or such later day as the Department may appoint, subject to the approval by the County Executive Committee.

Waiver of interest

16. The County Executive Member in charge of Finance may issue a circular, subject to approval by County Assembly, on the waiver of interest stating the period of waiver which should not be more than three months within a calendar year.

Charge on outstanding property rates

17. (1) Any rates due, together with interest thereon calculated in accordance with section 13 shall be a charge against the land on which the rate is levied.

(2) Where the title to property described under subsection (1) is registered under any law relating to the registration of title to land, the Department may deliver a notification of the charge described under subsection (1) in the prescribed form to the Land Registrar.

(3) The Land Registrar shall register charge notified under subsection (2) against the title to that land and the charge shall take priority in accordance with such law.

Rates Clearance Certificate

18. (1) the Department shall issue a Rates Clearance Certificate certifying that all outstanding rates and other charges payable to the County Government in respect of rateable property including rates and

charges for the last twelve months and up to the date of request of the clearance have been paid.

(2) The County Land Management Board shall not give any consent required to be obtained in respect of any transaction unless a Rates Clearance Certificate, is produced.

(3) The Land Registrar shall not register any instrument purporting to transfer or to vest any rateable property unless, a Rates Clearance Certificate is produced to the Registrar.

Statement of payment of rates and other charges

19. The Department shall upon request by rateable owner provide a statement of payment of rates which shall include any other relevant charges such as sewerage, sanitary and refuse removal charges chargeable to the property.

Exemption from and remission of rates

20. No area rate or agricultural rental value rate shall be imposed on any land which would, under the Valuation for Rating Act or any rules made thereunder, be land respect of which no valuation for the purposes of rating has been made under this Act.

Contribution in lieu of rates

21. (1) There shall be paid to the county government an annual contribution in lieu of any rates levied under this Act by—

- (a) the national government in respect of public land held by national government; and
- (b) the community in respect of land vested in the Community.

(2) The contribution in lieu of rates payable under this section shall be calculated in accordance with the Valuation for Rating Act and any Rules or Regulations made thereunder.

PART IV—ENFORCEMENT

Enforcement, Publication and Service of notices, etc

22. (1) Where a rateable owner fails to pay the rates due when they become payable, the Department may send a demand notice for the unpaid rates to the rateable owner in the prescribed form.

(2) Except where otherwise provided under this Act, any notice required to be published under this Act shall be published in one or more newspapers circulating in the county.

(3) A demand notice or other document required or authorized to be

sent or served under or for the purposes of this Act may be sent or served either—

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

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

(5) A person who having been served with a demand notice under sub-section (3), makes default in payment of the rates, the Department or the designated agency of the county government may institute civil suit for recovery of the amount owed and the person sued shall be responsible for the costs of the suit.

Recovery of rates from tenants or occupiers

23. (1) Where any rates remain unpaid after the demand notice is sent to a rateable owner under section 21, the Department or such agency designated by the county government may serve a written notice in the prescribed form—

- (i) to a tenant paying rent in respect of any land on which such rates was levied; and
- (i) to the rateable owner.

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

- (i) state the amount payable to the county government; and
- (ii) require or direct that all future payments of rent to be made directly to the county government until such amounts payable have been fully paid and such notice shall serve to transfer to the county government the right to recover and receive such monies.

(3) A tenant who pays the rent to the county government under this section shall not be liable to pay to the rateable owner the amount paid to the county government.

(4) The Department or the agency designated by the county government shall issue a discharge note to the tenant and the rateable owner after the tenant has completed paying the rates payable under this section.

PART V—GENERAL PROVISIONS

Subsidiary Legislation

24. (1) The Executive Member may make subsidiary legislation for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the subsidiary legislation may—

- (a) prescribe the forms of applications and notices; and
- (b) prescribe fees payable under this Act.

Saving

25. Any rate paid or payable to the County Government prior to the coming into force of this Act shall be deemed to be paid or payable under this Act.