

SPECIAL ISSUE

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SUPPLEMENT**

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**THE WEST POKOT COUNTY VALUATION AND
RATING ACT, 2015**

AN ACT of the County Assembly of West Pokot to provide for the valuation and imposition of rates on land and buildings, and for connected purposes.

ENACTED by the County Assembly of West Pokot, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the West Pokot County Valuation and Rating Act, 2015.

Application of Act

2. (1) This Act applies to all ratable property in West Pokot County.

Interpretation

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

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

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

“Chief officer” means the chief officer responsible for lands;

“County Government” means West Pokot County Government

“County Valuer” means the County Valuer established under section 5;

“Executive Committee Member” means—

(a) in relation to valuation, the County Executive Committee Member responsible for lands;

(b) in relation to rating, the Count Executive Committee Member responsible for finance

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

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

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

“rate” means a rate imposed under this Act;

“ratable owner” has the meaning assigned to it by Section 7 of the Valuation for Rating Act (Cap 266);

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

“rating area” means:

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

“rating authority” means the county government;

“receiver of revenue” has the meaning given by the Public Finance Management Act, 2012;

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

“Supplementary valuation roll” means any supplementary valuation roll prepared under the Valuation for Rating Act (Cap 266).

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

“year” means a period of 12 months starting on 1st January or such other prescribed date.

Purpose of the Act

4. The purpose of this Act is to provide for a legal framework for valuing and rating land in order to—

- (a) ensure efficiency, accountability and transparency in administration of valuation and rating of land;
- (b) promote economic development;
- (c) ensure equity and fairness in land valuation and rating system;
- (d) ensure compliance with payment of rates related to land.

PART II—ADMINISTRATION

County valuer

5. (1) There is established the office of the County Valuer which shall be an office in the County Public Service.

Function of the county valuer

6. The County Valuer shall be responsible for—

- (a) conducting valuation and rating of land;
- (b) preparing the valuation roll;
- (c) administering the valuation roll;
- (d) advising the Executive Committee Member on the appropriate methods of rating applicable under this Act.

Powers of the county valuer

7. The County Valuer shall have the power to—
- (a) value land for the purposes of rating;
 - (b) prepare the valuation roll;
 - (c) alter or amend the valuation roll in accordance with this Act or any written law;
 - (d) carry out any function as will be necessary to give effect to the purpose of this Act.

PART III—VALUATION**Preparation of Valuation Roll**

8. The County Valuer shall from time to time, but at least once in every ten years or such longer period as the County Executive Committee may approve, cause a valuation to be made of every rateable property within the county in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll.

Amendment of the Valuation Roll

9. (1) The County Valuer may amend the valuation roll in relation to—
- (a) any rateable property omitted from the valuation roll;
 - (b) any new rateable property;
 - (c) any rateable property which is subdivided or consolidated with other rateable property; or
 - (d) any rateable property which, from any cause particular to such rateable property arising since the time of valuation, has materially increased or decreased in value.

(2) The County Valuer shall cause a supplementary valuation roll to be prepared which shall consist of the amendments, alterations and additions to the valuation roll which are permitted under this section.

(3) The valuation roll shall be prepared at least once in each year following the year of valuation unless no alterations or additions to the valuation roll are required.

Power of entry and inspection

10. (1) The County Valuer or a Valuer authorized in writing by the Valuer may, for the purposes of preparing a valuation roll—

- (a) enter any premises, land or property for which a rate may be imposed;
- (b) inspect any premises, land or property or scrutinize any data, information, records, title deed or instrument in possession of any public officer or any person with interest in the land or property.
- (c) any person who wilfully hinders the county Valuer from exercising the powers conferred to the County Valuer under this Act commits an

offence and shall be liable to a fine not exceeding ten thousand shillings.

(2) The County Valuer may, by notice in writing, require the rateable owner or the occupier of any land to make a return containing such written particulars in regard to that land as may be necessary to enable the valuer to prepare a draft valuation roll or draft supplementary valuation roll accurately;

(3) a rateable owner or occupier of land who—

(a) neglects to furnish the particulars required under subsection (2)(a) within fourteen days after being called upon to do so; or

(b) furnishes false statement of value or of any other particulars;

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding three months or to both.

Contents of the Valuation roll

11. The valuation roll shall consist of—

(a) the description, situation and area of the land valued;

(b) the name and address of the rateable owner;

(c) the value of the land;

(d) the value of the unimproved land; and

(e) the assessment for the improvement rate.

Objections

12.(1) The County Valuer shall, after the completion of the valuation roll, and before submission to the Executive Committee Member, issue a public notice—

(a) informing the rateable owners or any interested person where the valuation roll can be inspected;

(b) inviting any person who has an objection with any issues stipulated under subsection (2) to lodge the objection with the County Valuer.

(2) A rateable owner or a person who is aggrieved by—

(a) the inclusion in or omission of any rateable property from the valuation roll; or

(b) any value ascribed in a valuation roll to any rateable property; or

(c) any statement made or omitted to be made in respect to any rateable property;

may lodge an objection to the County Valuer in the prescribed form within twenty one days after the notice issued under this section.

(3) Where there is an objection raised under this section, the County Valuer shall convene an ad hoc dispute resolution committee to consider and advise on the objection.

- (4) The ad hoc dispute resolution committee shall consist of—
- (a) the Chief officer who will be the chair person;
 - (b) the County Valuer who will be the secretary;
 - (c) the person in charge of Physical Planning;
 - (d) one valuer who is in private practice;
 - (e) one Advocate of the High Court of Kenya

Approval of valuation roll

13. (1) When a valuation roll has been completed, the County Valuer shall submit the roll to the Executive Committee Member.

(2) The Executive Committee Member shall submit the valuation roll to the County Executive Committee for consideration and adoption.

(3) The County Executive Committee shall within thirty days of adoption of the valuation roll transmit it to the County Assembly for consideration and approval.

Public notice and inspection of valuation roll

14. Upon approval of the valuation roll by County Assembly, the County Valuer shall publish a notice to the effect that the valuation roll has been approved and name the place where it can be inspected.

Exemption from valuation

15. (1) No valuation for the purposes of any rate shall be made in respect of any land which is used, or, is *bona fide* intended to be used within a reasonable time, directly and exclusively for any of the following purposes—

- (a) Public religious worship;
- (b) Cemeteries, crematoria and burial or burning grounds;
- (c) Hospitals or other institutions for the treatment of the sick;
- (d) educational institutions (including public schools within the meaning of the Basic Education Act, no. 14 of 2013) whether or not wholly supported by endowments or voluntary contributions, including the residence of students provided directly by educational institutions or forming part of, or being ancillary to, educational institutions;
- (e) charitable institutions, museums and libraries;
- (f) outdoor sports;
- (g) National Parks and National Reserves within the meaning of the Wildlife Conservation and Management Act (Cap. 376 laws of Kenya);

(2) For the purposes of this section the Executive Committee Member may make rules—

- (a) determining the principles upon which any land shall be deemed to be used for any of the purposes specified;
- (b) prescribing the principles for determining the circumstances in which any land shall be deemed to be the bona fide intended to be used for any of the purposes specified.

PART IV—RATING

Forms of rating

16. (1) The following rates shall be applicable under this Act—

- (a) an area rate as provided for in the First Schedule;
- (b) an agricultural rental value rate as provided for in the Second Schedule;
- (c) a site value rate or an improvement rate as provided for in the Third Schedule.

(2) One or more forms of rating shall be adopted for the purposes of imposing a rate under section 17.

Imposition of a rate

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

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

(3) The County Assembly may adopt one or more of the other forms of rating referred to in section 16 and may do so under the Act providing for annual county finances or such other Act as the County Assembly determines.

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

Amount of a rate payable

18. (1) The County Assembly shall determine for each year the amount of a rate that is payable and may do so under the Act providing for annual county finances or such other Act as the County Assembly determines.

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

Deemed amount of rates

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

Due date for payment of rates

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

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

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

Liability for payment of rates

21. (1) The rateable owner of any land at the date when a rate imposed on that land becomes payable is liable for payment of the amount of the rate.

(2) If the owners of the land are joint registered owners or tenants in common, they are jointly and severally liable for the payment of the rate.

(3) If the rateable owner of the land is absent from Kenya, any person receiving the rent or being in charge or control of the land is liable for the payment of the rate.

Collection of rates

22. (1) Rates shall be paid to the receiver of revenue or any other person authorized by the Executive Committee Member to collect rates.

(2) Rates are payable—

- (a) by electronic transfer of funds or such other ways as are approved by the receiver of revenue; or
- (b) at the offices of the County Government or at any other place as is determined by receiver of revenue.

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

Discount for early payment of rate

23. The Executive Committee Member may allow a discount as determined by the County Assembly on any rate paid in full on or before the day on which the rate becomes payable.

Penalty payable on late payment of rates

24. The Executive Committee Member may charge interest at a rate determined by the County Assembly on any amount of a rate remaining unpaid after the day on which the rate became payable.

Recovery of rates

25. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rate or part of the rate, as the case requires,

and any interest on any such unpaid rate or part as provided for in section 24, is recoverable in a court of competent jurisdiction as a debt due and owing to the County Government—from the person liable for payment of the rate.

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

(3) A certificate signed by the receiver of revenue and certifying that—

- (a) an amount of rates is or was due and payable on or before a certain date; and
- (b) the amount or part of the amount has not been paid on or before that date, is admissible as evidence against the defendant in proceedings under this section, and is prima facie evidence as to the matters certified.

Recovery of rates from persons paying rent

26. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the receiver of revenue may serve a written notice under Subsection (2) upon any person paying rent to the owner of the land in respect of which such rate was imposed.

(2) The written notice—

- (a) is to state the amount of such arrears, which may include interest calculated in accordance with Section 24; and
- (b) is to state that all future payments of rent (whether already accrued due or not) by the person paying the rent are to be made directly to the County Government until such arrears and interest have been paid in full.

(3) The notice operates for purposes of transferring to the receiver of revenue the right to recover, receive and give a discharge for such rent.

Rates chargeable on property

27. (1) Any rate due, together with interest calculated in accordance with Section 24, is a charge against the land on which the rate was imposed.

(2) If the title to such land is registered under any law relating to the registration of title to land, the receiver of revenue may deliver a notification of such charge, in the prescribed form, to the registrar who must register it against the title to that land and the charge takes priority in accordance with such law.

Statement of payment of rates and other charges

28. The receiver of revenue may, upon payment of the prescribed fee by any person, issue to that person a statement of the current status of the payment of rates for an area of land.

Publication and service of documents

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

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

- (a) by delivering it to the person to or on whom it is to be sent or served ;
or
- (b) by delivering 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.

PART V—MISCELLANEOUS**Regulations**

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

- (2) Without limiting subsection (1), regulations may—
- (a) prescribe the form and contents of the valuation roll;
 - (b) prescribe cases in which rates may be reduced or remitted;
 - (c) exempt any person or class of persons from the payment of rates or with respect to specified classes or cases;
 - (d) prescribe the cases or circumstances in which the Executive Committee Member is to or may grant exemption from the payment of rates or of any rate or class of rates and the persons and classes of persons who may be exempted;
 - (e) prescribe the extent to which any land is to be exempted from the payment of area rates;
 - (f) prescribe rates and fees payable under this Act.

Savings

31. (1) If immediately before the coming into operation of this Act, there is in force under any law a form or method of rating in respect of any area of the county which the county assembly is empowered to adopt under this Act, that form or method of rating is adopted by reference under this Act and continues to

apply in respect of that area, subject to such modifications (if any) as may be necessary to bring such form or method of rating into conformity with the provisions and requirements of this Act and any regulations made under this Act.

(2) Any rules, in force immediately before the coming into operation of this Act, that apply to any form or method of rating which is continued under subsection (1) are adopted by reference under this Act and continue in force for the purposes of this Act, subject to such modifications (if any) as may be necessary to bring such rules into conformity with the provisions and requirements of this Act.

(3) Any rules, in force immediately before the coming into operation of this Act, that exempt any charitable institution from the payment of rates in respect of any area in the county are adopted by reference under this Act and continue in force for the purposes of this Act, subject to such modifications (if any) as may be necessary to bring such rules into conformity with the provisions and requirements of this Act.

(4) 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.

Transition

32. Any valuation roll prepared or adopted prior to the commencement of this Act shall continue to apply until the same is replaced with a roll prepared under this Act.

FIRST SCHEDULE (S.16(1)(a))

AREA RATE

Area rate

(1) An area rate is a rate imposed on an area of land, and the County Assembly may for an area rate adopt one or more of the following methods of rating—

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

SECOND SCHEDULE

(S. 16(1)(b))

AGRICULTURAL RENTAL VALUE RATE**Agricultural rental value rate**

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

Second Schedule definitions

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

THIRD SCHEDULE

(S. 16(1)(c))

A SITE VALUE RATE OR AN IMPROVEMENT RATE**1. Site value rate**

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

2. Improvement rate

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

3. Application of Valuation for Rating Act (Cap 266)

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

FOURTH SCHEDULE

(S. 16)

DETERMINING THE AMOUNT OF A RATE THAT IS PAYABLE

For the purposes of Section 18 of the West Pokot Valuation and Rating Act, 2015 the amount of a rate payable for a rateable property for 2015 is five percent of the unimproved value of the rateable property.