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## THE PRESIDENCY

No. 610

17 May 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 6 of 2004: Local Government: Municipal Property Rates Act, 2004.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

*(English text signed by the President.)  
(Assented to 11 May 2004.)*

# ACT

To regulate the power of a municipality to impose rates on property; to exclude certain properties from rating in the national interest; to make provision for municipalities to implement a transparent and fair system of exemptions, reductions and rebates through their rating policies; to make provision for fair and equitable valuation methods of properties; to make provision for an objections and appeals process; to amend the Local Government: Municipal Systems Act, 2000, so as to make further provision for the serving of documents by municipalities; to amend or repeal certain legislation; and to provide for matters connected therewith.

## PREAMBLE

**WHEREAS** the Constitution entitles municipalities to impose rates on property in their areas, subject to regulation in terms of national legislation;

**AND WHEREAS** the Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities;

**AND WHEREAS** there is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfill its developmental responsibilities;

**AND WHEREAS** income derived from property rates is a critical source of revenue for municipalities to achieve their constitutional objectives, especially in areas that have been neglected in the past due to racially discriminatory laws;

**AND WHEREAS** it is essential that municipalities exercise their power to impose rates within a statutory framework that not only enhances certainty, uniformity and simplicity across the nation, but also takes into account historical imbalances and the rates burden on the poor;

**AND WHEREAS** the Constitution confers on Parliament the power to regulate the exercise by municipalities of their fiscal powers;

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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**CHAPTER 1**

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**INTERPRETATION**

**Definitions**

1. (1) In this Act, unless the context indicates otherwise—  
 “agent”, in relation to the owner of a property, means a person appointed by the owner of the property— 50

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- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;
- “agricultural purpose”**, in relation to the use of a property, excludes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game; 5
- “annually”** means once every financial year;
- “appeal board”** means a valuation appeal board established in terms of section 56;
- “assistant municipal valuer”** means a person designated as an assistant municipal valuer in terms of section 35(1) or (2);
- “category”** — 10
- (a) in relation to property, means a category of properties determined in terms of section 8; and
- (b) in relation to owners of properties, means a category of owners determined in terms of section 15(2);
- “data-collector”** means a person designated as a data-collector in terms of section 36; 15
- “date of valuation”** means the date determined by a municipality in terms of section 31(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; 20
- “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”**— 25
- (a) in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32(1); or
- (b) in relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of section 78(2)(b);
- “exclusion”**, in relation to a municipality’s rating power, means a restriction of that power as provided for in section 17; 30
- “exemption”**, in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15;
- “financial year”** means the period starting from 1 July in a year to 30 June the next year; 35
- “Income Tax Act”** means the Income Tax Act, 1962 (Act No. 58 of 1962);
- “land reform beneficiary”**, in relation to a property, means a person who—
- (a) acquired the property through—
- (i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); 40
- or
- (ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);
- (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 pursuant to section 25(6) and (7) of the Constitution be enacted after this Act has taken effect; 45
- “land tenure right”** means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004;
- “local community”**, in relation to a municipality—
- (a) means that body of persons comprising— 50
- (i) the residents of the municipality;
- (ii) the ratepayers of the municipality;

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- (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
- (iv) 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 5
- (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; 10
- “market value”**, in relation to a property, means the value of the property determined in accordance with section 46;
- “MEC for local government”** means the member of the Executive Council of a province who is responsible for local government in that province; 15
- “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; 20
- “multiple purposes”**, in relation to a property, means the use of a property for more than one purpose;
- “municipal council”** or **“council”** means a municipal council referred to in section 18 of the Municipal Structures Act;
- “Municipal Finance Management Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); 25
- “municipality”**—
- (a) as a corporate entity, means a municipality 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); 30
- “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); 35
- “Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- “municipal valuer”** or **“valuer of a municipality”** means a person designated as a municipal valuer in terms of section 33(1);
- “newly rateable property”** means any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding— 40
- (a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and
- (b) a property identified by the Minister by notice in the *Gazette* where the phasing-in of a rate is not justified; 45
- “occupier”**, in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;
- “organ of state”** means an organ of state as defined in section 239 of the Constitution; 50

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MUNICIPAL PROPERTY RATES ACT, 2004**“owner”**—

- (a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property 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; 5
- (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; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”; 10

provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases: 15

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under 20 judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a 25 municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

**“permitted use”**, in relation to a property, means the limited purposes for which the property may be used in terms of — 30

- (a) any restrictions imposed by —
- (i) a condition of title;
- (ii) a provision of a town planning or land use scheme; or
- (iii) any legislation applicable to any specific property or properties; or 35
- (b) any alleviation of any such restrictions;

**“person”** includes an organ of state;

**“prescribe”** means prescribe by regulation in terms of section 83;

**“property”** means—

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person; 40
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or 45
- (d) public service infrastructure;

**“property register”** means a register of properties referred to in section 23;

**“protected area”** means an area that is or has to be listed in the register referred to in section 10 of the Protected Areas Act; 50



- “Protected Areas Act”** means the National Environmental Management: Protected Areas Act, 2003;
- “publicly controlled”** means owned by or otherwise under the control of an organ of state, including —
- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No. 1 of 1999); 5
- (b) a municipality; or
- (c) a municipal entity as defined in the Municipal Systems Act;
- “public service infrastructure”** means publicly controlled infrastructure of the following kinds: 10
- (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, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public; 15
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system; 20
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels; 25
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i); 30
- “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 fully excluded from the levying of rates in terms of section 17; 35
- “rebate”**, in relation to a rate payable on a property, means a discount granted in terms of section 15 on the amount of the rate payable on the property;
- “reduction”**, in relation to a rate payable on a property, means the lowering in terms of section 15 of the amount for which the property was valued and the rating of the property at that lower amount; 40
- “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 45
- (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;
- “residential property”** means a property included in a valuation roll in terms of section 48 (2) (b) as residential; 50

- “**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;  
 “**specified public benefit activity**” means an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act; 5  
 “**state trust land**” means land owned by the state—  
 (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure; 10  
 (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 83.  
 (2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended. 15

## CHAPTER 2

### RATING

#### Power to levy rates 20

2. (1) A metropolitan or local municipality may levy a rate on property in its area.  
 (2) (a) A district municipality may not levy a rate on property except on property in a district management area within the municipality.  
 (b) Any reference in this Act to the area of a municipality must, in the case of a district municipality, be read as a reference to a district management area within the district municipality. 25  
 (3) A municipality must exercise its power to levy a rate on property subject to—  
 (a) section 229 and any other applicable provisions of the Constitution;  
 (b) the provisions of this Act; and  
 (c) the rates policy it must adopt in terms of section 3. 30

#### *Part 1: Rates policy*

#### Adoption and contents of rates policy

3. (1) The council of a municipality must adopt a policy consistent with this Act on the levying of rates on rateable property in the municipality.  
 (2) A rates policy adopted in terms of subsection (1) takes effect on the effective date of the first valuation roll prepared by the municipality in terms of this Act, and must accompany the municipality’s budget for the financial year concerned when the budget is tabled in the municipal council in terms of section 16(2) of the Municipal Finance Management Act. 35  
 (3) A rates policy must— 40  
 (a) treat persons liable for rates equitably;  
 (b) determine the criteria to be applied by the municipality if it—  
 (i) levies different rates for different categories of properties;  
 (ii) exempts a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate on their properties; 45  
 (iii) grants to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rate payable in respect of their properties; or  
 (iv) increases rates; 50  
 (c) determine, or provide criteria for the determination of —  
 (i) categories of properties for the purpose of levying different rates as contemplated in paragraph (b)(i); and  
 (ii) categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions as contemplated in paragraph (b)(ii) or (iii); 55

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- (d) determine how the municipality's powers in terms of section 9(1) must be exercised in relation to properties used for multiple purposes;
- (e) identify and quantify in terms of cost to the municipality and any benefit to the local community—
- (i) exemptions, rebates and reductions; 5
  - (ii) exclusions referred to in section 17(1)(a), (e), (g), (h) and (i); and
  - (iii) rates on properties that must be phased in in terms of section 21;
- (f) take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them;
- (g) take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax reductions because of those activities, in the case of property owned and used by such organisations for those activities; 10
- (h) take into account the effect of rates on public service infrastructure;
- (i) allow the municipality to promote local, social and economic development; 15  
and
- (j) identify, on a basis as may be prescribed, all rateable properties in the municipality that are not rated in terms of section 7(2)(a).
- (4) When considering the criteria to be applied in respect of any exemptions, rebates and reductions on properties used for agricultural purposes, a municipality must take into account— 20
- (a) the extent of services provided by the municipality in respect of such properties;
  - (b) the contribution of agriculture to the local economy;
  - (c) the extent to which agriculture assists in meeting the service delivery and development obligations of the municipality; and 25
  - (d) the contribution of agriculture to the social and economic welfare of farm workers.
- (5) Any exemptions, rebates or reductions referred to in subsection (3) and provided for in a rates policy adopted by a municipality must comply and be implemented in accordance with a national framework that may be prescribed after consultation with organised local government. 30
- (6) No municipality may grant relief in respect of the payment of a rate—
- (a) to a category of owners of properties, or to the owners of a category of properties, other than by way of an exemption, a rebate or a reduction 35 provided for in its rates policy and granted in terms of section 15; or
  - (b) to the owners of properties on an individual basis.

**Community participation**

4. (1) Before a municipality adopts its rates policy, the municipality must—
- (a) follow a process of community participation in accordance with Chapter 4 of 40 the Municipal Systems Act; and
  - (b) comply with subsection (2).
- (2) The municipal manager of the municipality must—
- (a) conspicuously display the draft rates policy for a period of at least 30 days— 45
    - (i) at the municipality's head and satellite offices and libraries; and
    - (ii) if the municipality has an official website or a website available to it as envisaged in section 21B of the Municipal Systems Act, on that website; and
  - (b) advertise in the media a notice— 50
    - (i) stating—
      - (aa) that a draft rates policy has been prepared for submission to the council; and
      - (bb) that the draft rates policy is available at the municipality's head and satellite offices and libraries for public inspection during office hours and, if the municipality has an official website or a website 55 available to it, that the draft rates policy is also available on that website; and
    - (ii) inviting the local community to submit comments and representations to the municipality concerned within a period specified in the notice which may not be less than 30 days. 60

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(3) A municipal council must take all comments and representations 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, amend its rates policy. Any amendments to a rates policy must accompany the municipality's annual budget when it is tabled in the council in terms of section 16 (2) of the Municipal Finance Management Act. 5

(2) Section 3(3) to (6), read with the necessary changes as the context may require, apply to any amendment of a rates policy. Community participation in amendments to a rates policy must be effected through the municipality's annual budget process in terms of sections 22 and 23 of the Municipal Finance Management Act. 10

**By-laws to give effect to rates policy**

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

- (2) By-laws in terms of subsection (1) may differentiate between— 15
- (a) different categories of properties; and
  - (b) different categories of owners of properties liable for the payment of rates.

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

7. (1) When levying rates, a municipality 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. 20

(2) Subsection (1) does not—

- (a) oblige a municipality to levy rates on—
  - (i) properties of which that municipality is the owner; 25
  - (ii) public service infrastructure owned by a municipal entity;
  - (iii) properties referred to in paragraph (b) of the definition of "property" in section 1; or
  - (iv) properties in respect of which it is impossible or unreasonably difficult to establish a market value because of legally insecure tenure resulting from past racially discriminatory laws or practices; or 30
- (b) prevent a municipality from granting in terms of section 15 exemptions from, rebates on or reductions in rates levied in terms of subsection (1).

**Differential rates**

8. (1) Subject to section 19, a municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property, which may include categories determined according to the— 35

- (a) use of the property;
- (b) permitted use of the property; or
- (c) geographical area in which the property is situated. 40

(2) Categories of rateable property that may be determined in terms of subsection (1) include the following:

- (a) Residential properties;
- (b) industrial properties;

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- (c) business and commercial properties;
- (d) farm properties used for—
  - (i) agricultural purposes;
  - (ii) other business and commercial purposes;
  - (iii) residential purposes; or 5
  - (iv) purposes other than those specified in subparagraphs (i) to (iii);
- (e) farm properties not used for any purpose;
- (f) smallholdings used for—
  - (i) agricultural purposes;
  - (ii) residential purposes; 10
  - (iii) industrial purposes;
  - (iv) business and commercial purposes; or
  - (v) purposes other than those specified in subparagraphs (i) to (iv);
- (g) state-owned properties;
- (h) municipal properties; 15
- (i) public service infrastructure;
- (j) privately owned towns serviced by the owner;
- (k) formal and informal settlements;
- (l) communal land as defined in section 1 of the Communal Land Rights Act, 2004; 20
- (m) state trust land;
- (n) properties—
  - (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 25
  - (ii) which is subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996);
- (o) protected areas;
- (p) properties on which national monuments are proclaimed;
- (q) properties owned by public benefit organisations and used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act; or 30
- (r) properties used for multiple purposes, subject to section 9.

**Properties used for multiple purposes**

9. (1) A property used for multiple purposes must, for rates purposes, be assigned to a category determined by the municipality for properties used for— 35
- (a) a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated;
  - (b) a purpose corresponding with the dominant use of the property; or
  - (c) multiple purposes in terms of section 8(2)(r). 40
- (2) A rate levied on a property assigned in terms of subsection (1)(c) to a category of properties used for multiple purposes must be determined by—
- (a) apportioning the market value of the property, in a manner as may be prescribed, to the different purposes for which the property is used; and
  - (b) applying the rates applicable to the categories determined by the municipality for properties used for those purposes to the different market value apportionments. 45

**Levying of rates on property in sectional title schemes**

10. (1) 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. 50
- (2) Subsection (1) must be read subject to section 92.

**Amount due for rates**

11. (1) A rate levied by a municipality on property must be an amount in the Rand—
- (a) on the market value of the property;
  - (b) in the case of public service infrastructure, on the market value of the public service infrastructure less 30% of that value as contemplated in section 17(1)(a), or on such lower percentage as the Minister may determine in terms of section 17 (4); or 55