

REPUBLIC OF SOUTH AFRICA

LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES AMENDMENT BILL

*(As proposed by the Portfolio Committee on Cooperative Governance and Traditional
Affairs (National Assembly))
(The English text is the official text of the Bill)*

(MINISTER FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS)

[B 33B—2013]

ISBN 978-1-4850-0118-8

No. of copies printed 1 800

[] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicates insertions in existing enactments.

To amend the Local Government: Municipal Property Rates Act, 2004, so as to provide for the amendment and insertion of certain definitions; to delete the provisions dealing with district management areas; to provide that a rates policy must determine criteria for not only the increase but also for the decrease of rates; to delete the provisions of section 3(4) and to provide for a rates policy to give effect to the regulations promulgated in terms of section 19(1)(b); to provide that by-laws giving effect to the rates policy must be adopted and published in terms of the Municipal Systems Act; to provide for the determination of categories of property in respect of which rates may be levied and to provide for a municipality to apply to the Minister for authorisation to sub-categorise property categories where it can show good cause to do so; to regulate the timeframe of publication of the resolutions levying rates and what must be contained in the promulgated resolution; to provide for the Minister to make a decision in terms of section 16(2) with the concurrence of the Minister of Finance; to provide for the exclusion from rates of certain categories of public service infrastructure as well as mining rights or mining permits, to provide that infrastructure above the surface in respect of mining property is rateable and the rates are payable by the holder of the mining right or mining permit; to provide that the exclusion from rates in respect of land belonging to a land reform beneficiary is extended to the spouse and dependants; to provide that an exclusion from rates in respect of the seashore lapses if any part thereof is alienated; to provide that a municipality may levy different rates on vacant residential property; to provide that a municipality may not recover rates in respect of a right of exclusive use registered against a sectional title unit from the body corporate; to provide that a person liable for a rate must furnish the municipality with his or her postal address; to provide that municipalities are not required to value properties fully excluded from rates; to provide for the period of validity of a valuation roll to be four years in respect of a metropolitan municipality and five years in respect of local municipalities; to provide for the MEC for local government to extend the period of validity of valuation rolls by two additional years where the provincial executive has intervened in terms of section 139 of the Constitution and by one financial year and two financial years for metropolitan and local municipalities respectively on request by a municipality in any exceptional circumstances; to provide that a body corporate, share block company or managing association is required to provide information to a valuer; to delete the requirement for the payment of interest in specific instances; to delete the requirement for the establishment of a valuation appeal board in every district municipality; to provide that a professional associated valuer may be appointed to

the valuation appeal board if a professional valuer cannot be appointed; to amend the quorum of an appeal board to include the valuer member of the valuation appeal board; to amend the dates on which a supplementary valuation takes effect; to provide for the notification of owners of property affected by a supplementary valuation; to limit condonation by the MEC for local government through the framework to municipalities only; to provide for more effective monitoring and reporting by municipalities and provinces on critical areas of the implementation of the Act; to extend the Minister's regulatory powers; to provide for the phasing in of certain regulations; to provide for the phasing in of the prohibition on the levying of rates on certain types of public service infrastructure; to provide for transitional arrangements in respect of municipalities that have been affected by a redetermination of municipal boundaries; to provide for transitional arrangements for the implementation of section 8; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 6 of 2004, as amended by section 24 of Act 19 of 2008

1. Section 1 of the Local Government: Municipal Property Rates Act, 2004 (the principal Act), is hereby amended—

- (a) by the substitution for the definition of “agricultural purpose” of the following definition:

“**‘agricultural [purpose] property’** [in relation to the use of a property,] means property that is used primarily for agricultural purposes but, without derogating from section 9, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of [a] the property for the purpose of eco-tourism or for the trading in or hunting of game;”;

- (b) by the insertion after the definition of “date of valuation” of the following definition:

“**‘day’** means when any number of days are prescribed for the performance of any act, those days must be reckoned by excluding the first and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also any such Saturday, Sunday or public holiday;”;

- (c) by the deletion of the definition of “district management area”;

- (d) by the substitution for the definition of “land tenure right” of the following definition:

“**‘land tenure right’** means [an old order right or a new order right] a land tenure right as defined in section 1 of the [Communal Land Rights Act, 2004 (Act No. 11 of 2004)] Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991);”;

- (e) by the insertion after the definition of “metropolitan municipality” of the following definition:

“**‘mining property’** means a property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);”;

- (f) by the substitution for the definition of “multiple purposes” of the following definition:

“**‘multiple purposes’**, in relation to a property, means the use of a property for more than one purpose, subject to section 9;”;

- (g) by the deletion of the definition of “municipality”;

- (h) by the insertion after the definition of “occupier” of the following definitions:

“**‘office bearer’**, in relation to places of public worship, means the primary person who officiates at services at that place of worship;

- ‘official residence’**, in relation to places of public worship, means—
- (a) a portion of the property used for residential purposes; or
 - (b) one residential property, if the residential property is not located on the same property as the place of public worship, registered in the name of a religious community or registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for the office bearer;”;
- (i) by the insertion in the definition of “owner”—
- (i) after paragraph (b) of the following paragraphs:
 - “(bA) in relation to a time sharing interest contemplated in the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983), means the management association contemplated in the regulations made in terms of section 12 of the Property Time-sharing Control Act, 1983, and published in Government Notice R327 of 24 February 1984;
 - (bB) in relation to a share in a share block company, the share block company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980);
 - (bC) in relation to buildings, other immovable structures and infrastructure referred to in section 17(1)(f), means the holder of the mining right or the mining permit;”;
 - (ii) after subparagraph (vii) of the following subparagraph:
 - “(viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right; or”;
- (j) by the insertion after the definition of “person” of the following definition:
- “‘place of public worship’** means property used primarily for the purposes of congregation, excluding a structure that is primarily used for educational instruction in which secular or religious education is the primary instructive medium: Provided that the property is—
- (a) registered in the name of the religious community;
 - (b) registered in the name of a trust established for the sole benefit of a religious community; or
 - (c) subject to a land tenure right;”;
- (k) by the substitution for paragraph (g) of the definition of “public service infrastructure” of the following paragraph:
- “(g) runways [or], aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for air navigation purposes;”;
- (l) by the insertion after the definition of “public service infrastructure” of the following definition:
- “‘public service purposes’**, in relation to the use of a property, means property owned and used by an organ of state as—
- (a) hospitals or clinics;
 - (b) schools, pre-schools, early childhood development centres or further education and training colleges;
 - (c) national and provincial libraries and archives;
 - (d) police stations;
 - (e) correctional facilities; or
 - (f) courts of law,
- but excludes property contemplated in the definition of ‘public service infrastructure’;”;
- (m) by the insertion after the definition of “rateable property” of the following definition:
- “‘ratio’**, in relation to section 19, means the relationship between the cent amount in the Rand applicable to residential properties and different categories of non-residential properties: Provided that the two relevant cent amounts in the Rand are inclusive of any relief measures that amount to rebates of a general application to all properties within a property category;”;
- (n) by the substitution for the definition of “residential property” of the following definition:

“ **‘residential property’** means a property included in a valuation roll in terms of section 48(2)(b) **[as residential;]** in respect of which the primary use or permitted use is for residential purposes without derogating from section 9;”.

Amendment of section 2 of Act 6 of 2004

5

2. Section 2 of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of section 3 of Act 6 of 2004, as amended by section 25 of Act 19 of 2008

3. Section 3 of the principal Act is hereby amended—

- (a) by the substitution in subsection (3)(b) for subparagraph (i) of the following subparagraph: 10
 “(i) levies different rates for different categories of properties determined in terms of section 8;”;
- (b) by the substitution in subsection (3)(b) for subparagraph (iv) of the following subparagraph: 15
 “(iv) increases or decreases rates;”;
- (c) by the addition in subsection (3) of the word “and” at the end of paragraph (j);
- (d) by the addition in subsection (3) after paragraph (j) of the following paragraph: 20
 “(k) in respect of agricultural property, give effect to the regulations promulgated in terms of section 19(1)(b).”; and
- (e) by the deletion of subsection (4).

Amendment of section 6 of Act 6 of 2004

4. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) A municipality must adopt and publish by-laws, in terms of sections 12 and 13 of the Municipal Systems Act, to give effect to the implementation of its rates policy.”. 25

Amendment of section 7 of Act 6 of 2004, as amended by section 26 of Act 19 of 2008

5. Section 7 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 30

- “(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].**”.

Substitution of section 8 of Act 6 of 2004

6. The following section is hereby substituted for section 8 of the principal Act: 35

“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, determined in subsection (2) and (3), which must be determined according to the— 40
 - (a) use of the property;
 - (b) permitted use of the property; or
 - (c) a combination of (a) and (b).
- (2) A municipality must determine the following categories of rateable property in terms of subsection (1): Provided such property category exists within the municipal jurisdiction: 45
 - (a) Residential properties;
 - (b) industrial properties;
 - (c) business and commercial properties;
 - (d) agricultural properties; 50
 - (e) mining properties;

- (f) properties owned by an organ of state and used for public service purposes;
 - (g) public service infrastructure properties;
 - (h) properties owned by public benefit organisations and used for specified public benefit activities;
 - (i) properties used for multiple purposes, subject to section 9; or
 - (j) any other category of property as may be determined by the Minister, with the concurrence of the Minister of Finance, by notice in the *Gazette*.
- (3) In addition to the categories of rateable property determined in terms of subsection (2), a municipality may determine additional categories of rateable property, including vacant land: Provided that, with the exception of vacant land, the determination of such property categories does not circumvent the categories of rateable property that must be determined in terms of subsection (2).
- (4) (a) Where a municipality can, on good cause, show that there is a need to sub-categorise the property categories listed in subsection (2), a municipality must apply to the Minister in writing for authorisation to create one or more of such sub-categories.
- (b) Such application must—
- (i) be accompanied by a motivation for such sub-categorisation;
 - (ii) demonstrate that such sub-categorisation is not in contravention of section 19; and
 - (iii) reach the Minister at least 15 months before the start of the municipal financial year in which the municipality envisages levying a rate on such sub-categorised property.”.

Amendment of section 9 of Act 6 of 2004, as amended by section 27 of Act 19 of 2008

7. Section 9 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:
- “(c) multiple purposes in terms of section 8(2)[(r)](i).”.

Amendment of section 11 of Act 6 of 2004

8. Section 11 of the principal Act is hereby amended—
- (a) by the substitution for subsection (2) of the following subsection:
- “(2) A rate levied by a municipality on residential properties with a market value below a prescribed valuation level may, instead of a rate determined in terms of subsection (1), be a uniform fixed amount per property.”; and
- (b) by the deletion of subsection (3).

Amendment of section 12 of Act 6 of 2004

9. Section 12 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:
- “(3) A rate levied for a financial year may not be increased during a financial year **[only]** as provided for in section 28(6) of the Municipal Finance Management Act.”.

Amendment of section 14 of Act 6 of 2004

10. Section 14 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
- “(2) (a) A resolution levying rates in a municipality must be annually promulgated, within 60 days of the date of the resolution, by publishing the resolution in the *Provincial Gazette*.
- (b) The resolution must—
- (i) contain the date on which the resolution levying rates was passed;
 - (ii) differentiate between categories of properties; and
 - (iii) reflect the cent amount in the Rand rate for each category of property.”.

Amendment of section 15 of Act 6 of 2004, as amended by section 28 of Act 19 of 2008

11. Section 15 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 5

“(2) When granting in terms of subsection (1) exemptions, rebates or reductions in respect of owners of categories of properties, a municipality may determine such categories in accordance with section 8(2) and subsection (2A), and when granting exemptions, rebates or reductions in respect of categories of owners of properties, such categories may include—”;
- (b) by the insertion after subsection (2) of the following subsection: 10

“(2A) In addition to the categories of rateable property determined in terms of section 8(2), a municipality may, subject to any ratio determined in terms of section 19, for the purposes of granting exemptions, rebates and reductions, determine such property categories based on—

 - (a) properties used for public service purposes; and
 - (b) properties to which the provisions of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), apply, or an institution that has been declared to be subject to the Cultural Institutions Act, 1998 (Act No. 119 of 1998).”;
- (c) by the deletion in subsection (3)(b) of subparagraphs (ii) and (iii). 15 20

Amendment of section 16 of Act 6 of 2004

12. Section 16 of the principal Act is hereby amended by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs: 25

- “(a) If a rate on a specific category of properties, or a rate on a specific category of properties above a specific amount in the Rand, is materially and unreasonably prejudicing any of the matters listed in subsection (1), the Minister, **[after notifying]** with the concurrence of the Minister of Finance, must, by notice in the *Gazette*, give notice to the relevant municipality or municipalities that the rate must be limited to an amount in the Rand specified in the notice. 30
- (b) A municipality affected by a notice referred to in paragraph (a) must give effect to the notice **[and, if necessary, adjust its budget for the next financial year accordingly]**, the effective date of which must be from the date determined by the Minister in the notice. 35

Amendment of section 17 of Act 6 of 2004, as amended by section 29 of Act 19 of 2008

13. Section 17 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 40

“(a) subject to paragraph (aA), on the first 30% of the market value of public service infrastructure;”;
- (b) by the insertion in subsection (1) after paragraph (a) of the following paragraph: 45

“(aA) on any property referred to in paragraphs (a), (b), (e), (g) and (h) of the definition of ‘public service infrastructure’;”;
- (c) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) on any part of the sea-shore as defined in the **[Sea shore Act, 1935 (Act No. 21 of 1935)] National Environmental Management: Integrated Coastal Management Act, 2007 (Act No. 24 of 2008);**”;
- (d) by the substitution in subsection (1) for paragraph (f) of the following paragraph: 50

“(f) on **[mineral] mining rights or a mining permit** within the meaning of **[paragraph (b) of the definition of “property” in section 1]** the Mineral and Petroleum Resources Development Act, 2002 (Act No. 55

- 28 of 2002), excluding any building, other immovable structures and infrastructure above the surface of the mining property required for purposes of mining;”;
- (e) by the substitution in subsection (1) for paragraph (g) of the following paragraph: 5
- “(g) on a property belonging to a land reform beneficiary or his or her heirs, dependants or spouse provided that this exclusion lapses—
- (i) ten years from the date on which such beneficiary’s title was registered in the office of the Registrar of Deeds; or
- (ii) upon alienation of the property by the land reform beneficiary or his or her heirs, dependants or spouse;”;
- (f) by the substitution in subsection (1) for paragraph (i) of the following paragraph: 10
- “(i) on a property registered in the name of and used primarily as a place of public worship by a religious community, including **[an]** the official residence registered in the name of that community which is occupied by **[an]** the office bearer of that community who officiates at services at that place of worship.” 15
- (g) by the insertion after subsection (1) of the following subsection: 20
- “(1A) The exclusion from rates of a property referred to in subsection (1)(b) lapses—
- (a) if the property is alienated or let; or
- (b) if the exclusion from rates of a property lapses in terms of paragraph (a), the new owner or lessee becomes liable to the municipality concerned for the rates that, had it not been for subsection (1)(b), would have been payable on the property, notwithstanding section 78, with effect from the date of alienation or lease.”; 25
- (h) by the substitution in subsection (2) for paragraph (b) of the following paragraph: 30
- “(b) (i) If the property in respect of which the declaration is withdrawn is privately owned, the owner, upon withdrawal of the declaration, becomes liable to the municipality concerned for any rates that, had it not been for subsection (1)(e), would have been payable on the property, notwithstanding section 78, during the period commencing from the effective date of the current valuation roll of the municipality. 35
- (ii) If the property was declared as a protected area after the effective date of the current valuation roll, rates are payable only from the date of declaration of the property.”; and
- (i) by the substitution in subsection (5) for paragraph (b) of the following paragraph: 40
- “(b) If the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that, had it not been for subsection (1)(i), would have been payable on the property, notwithstanding section 78, during the period of one year preceding the date on which the exclusion lapsed.”. 45

Amendment of section 19 of Act 6 of 2004, as amended by section 30 of Act 19 of 2008

- 14. Section 19 of the principal Act is hereby amended—**
- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 50
- “(a) different rates on residential properties, except as provided for in sections 11(2), 21 and **[89] 89A: Provided that this paragraph does not apply to residential property which is vacant;**”;
- (b) by the substitution for subsection (2) of the following subsection: 55
- “(2) The ratio referred to in subsection (1)(b) may be subject to prescribed norms and standards, and may only be prescribed with the concurrence of the Minister of Finance.”.

Amendment of section 20 of Act 6 of 2004, as amended by section 31 of Act 19 of 2008

15. Section 20 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) different kinds of municipalities which may, for the purposes of this section, be defined in the notice either in relation to categories, **[of municipalities within the meaning of the Municipal Structures Act]** types, or budgetary size of municipalities or in any other way; or”; and

- (b) by the insertion after subsection (2) of the following subsection:

“(2A) The Minister may, with the concurrence of the Minister of Finance, and by the notice referred to in subsection (1), delay the implementation of a limit, for a period determined in that notice and in respect of the different kinds of municipalities defined in terms of subsection (2)(a).”.

Amendment of section 25 of Act 6 of 2004

16. Section 25 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) A rate levied by a municipality on a sectional title unit is payable by the owner of the unit or the holder of a right contemplated in section 25 or 27 of the Sectional Titles Act.”

(2) A municipality may not recover the rate on a sectional title unit, or on a right contemplated in section 25 or 27 of the Sectional Titles Act registered against the sectional title unit, or any part of such rate, from the body corporate controlling a sectional title scheme, except when the body corporate is the owner of any specific sectional title unit, or the holder of such right.”.

Amendment of section 27 of Act 6 of 2004

17. Section 27 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) A person liable for a rate must furnish the municipality with an address where correspondence can be directed to.”.

Amendment of section 30 of Act 6 of 2004

18. Section 30 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“(2) All rateable properties in the municipality must be valued during a general valuation, including **[all]** those properties **[fully or]** partially excluded from rates in terms of section 17(1)(a)[, (e), (g),] **and** (h) **[and (i)]**: Provided that—”; and

- (b) by the substitution for subsection (3) of the following subsection:

“(3) All properties valued in terms of subsection (2) must be included in the valuation roll: Provided that properties referred to in **[subsection (2)(b) and in section]** sections 7(2)(a)(i) and (ii) **and** 17(1)(e), (g) **and** (i) must be included in the valuation roll whether **[or not]** they **[were]** have been valued or not.”.

Amendment of section 32 of Act 6 of 2004

19. Section 32 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) remains valid for that financial year or for one or more subsequent financial years as the municipality may decide, but in total not for more than—

- (i) four financial years in respect of a metropolitan municipality;
and
(ii) five financial years in respect of a local municipality.”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) The MEC for local government in a province may extend the period for which a valuation roll remains valid **[to five financial years, but only]**—

(a) in the case of—

(i) a metropolitan municipality, to six financial years; and

(ii) a local municipality, to seven financial years,

if the provincial executive has intervened in the municipality in terms of section 139 of the Constitution; or

(b) in the case of—

(i) a metropolitan municipality, to five financial years; and

(ii) a local municipality, to seven financial years,

on request by the municipality, in other exceptional circumstances which warrant such extension.”

Amendment of section 34 of Act 6 of 2004

20. Section 34 of the principal Act is hereby amended by the insertion after paragraph (a) of the following paragraph:

“(aA) subject to section 81(1B), as part of the process towards submitting a valuation roll contemplated in paragraph (b), after appointment and until submission of the certified valuation roll, submit a monthly progress report to the municipal manager on the valuation of properties, regardless of whether properties are valued in terms of section 45(2)(a) or in terms of a combination of section 45(2)(a) and (b);”.

Amendment of section 42 of Act 6 of 2004

21. Section 42 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) require the owner, tenant or occupier of a property which the valuer must value in terms of this Act, or the agent of the owner, or the body corporate controlling a sectional title scheme or the share block company in respect of a share block scheme or the management association in respect of a property time-sharing scheme, to give the valuer access to any document or information in possession of the owner, tenant, occupier, **[or]** agent, body corporate, share block company or management association which the valuer reasonably requires for purpose of valuing the property;”; and

(b) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) in writing require the owner, tenant or occupier of the property, or the agent of the owner, or the body corporate controlling a sectional title scheme or the share block company in respect of a share block scheme or the managing association in respect of a property time-sharing scheme to provide the valuer, either in writing or orally, with particulars regarding the property which the valuer reasonably requires for purpose of valuing the property.”.

Amendment of section 55 of Act 6 of 2004

22. Section 55 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) either—

(i) recover from **[, or repay to,]** the person liable for the payment of the rate the difference determined in terms of paragraph (a) **[plus interest at a prescribed rate]** without adding interest on the amount due for rates; or

- (ii) repay to the person who made the payment the difference determined in terms of paragraph (a) plus interest at the prescribed rate.”; and
- (b) by the deletion of subsection (3).

Amendment of section 56 of Act 6 of 2004

5

23. Section 56 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The MEC for local government must, by notice in the **[provincial] Provincial Gazette**, establish as many valuation appeal boards in the province as may be necessary, but not fewer than one in each **[district municipality and each]** metropolitan municipality.”; and

- (b) by the deletion of subsection (2).

Amendment of section 58 of Act 6 of 2004

24. Section 58 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

15

“(b) not fewer than two and not more than four other members with sufficient knowledge of or experience in the valuation of property, of which at least one—

- (i) must be a professional valuer registered in terms of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000); or
- (ii) may be a professional associated valuer, without restrictions and with at least ten years experience, registered in terms of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000), if a professional valuer cannot be appointed.”

20

Amendment of section 68 of Act 6 of 2004

25

25. Section 68 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) (a) A majority of the members of an appeal board serving at any **[relevant] time**, constitutes a quorum for a meeting of the board.

(b) In addition to a quorum being present, a meeting may not continue unless the valuer member of the appeal board is present.”.

30

Amendment of section 78 of Act 6 of 2004, as amended by section 33 of Act 19 of 2008

26. Section 78 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of the word “or” at the end of paragraph (f);
- (b) by the addition in subsection (1) of the word “or” at the end of paragraph (g);
- (c) by the addition to subsection (1) of the following paragraph:

35

“(h) the value of which was incorrectly recorded in the valuation roll as a result of a clerical or typing error.”;

- (d) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

40

“(b) the supplementary valuation **[roll takes effect on the first day of the month following the completion of the public inspection period required for the supplementary valuation roll in terms of section 49 (as read with this section), and]** remains valid for the duration of the municipality’s current valuation roll.”;

45

- (e) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“(4) Rates on a property based on the valuation of that property in a supplementary valuation **[roll]** become payable with effect from—”;

50

- (f) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

“(a) **[the effective date of the supplementary roll,]** the first day of the month following the posting of the notice contemplated in

- subsection (5), in the case of a property referred to in subsection (1)(a) [(e)] or (f);”;
- (g) by the insertion in subsection (4) after paragraph (a) of the following paragraph:
- “(aA) the first day of the month following the posting of the notice contemplated in subsection (5) in the case of property referred to in subsection (1)(a), (e), (f) or (h): Provided that in the case of a decrease in value in respect of a property referred to in subsection (1)(e), the rates become payable on the date the property was incorrectly valued or the clerical or typing error was made;”;
- (h) by the addition of the following subsections:
- “(5) (a) A municipal valuer must on completion of the supplementary valuation contemplated in subsection (1)(a) to (g), and following a correction contemplated in subsection (1)(h), serve the results of the supplementary valuations or corrections contemplated in subsections (1)(g) and (h), by ordinary mail, or if appropriate, in accordance with section 115 of the Municipal Systems Act, on every owner of property who has been affected by a supplementary valuation contemplated in subsection (1)(a) to (g) and a correction contemplated in subsection (1)(h), a notice reflecting the supplementary valuation or correction of the property, as well as the particulars listed in section 48(2);
- (b) The notice referred to in paragraph (a) must inform the property owner that he or she may lodge a request for review with the municipal manager in writing, within 30 days after the posting of the notice in respect of any matter reflected in the supplementary valuation.
- (c) The municipal valuer may adjust the valuation on consideration of the request for review contemplated in paragraph (b).
- (6) The municipality must, at least once a year, compile and publish a supplementary valuation roll of all properties on which a supplementary valuation, as contemplated in subsection (1) was made, including review decisions referred to in subsection (5)(b), and make it public and available for inspection in the manner provided for in section 49.”.

Amendment of section 80 of Act 6 of 2004

27. Section 80 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
- “(1) The MEC for local government in a province may, on good cause shown, and on such conditions as the MEC may impose, condone any non-compliance by a municipality with a provision of this Act requiring any act to be done within a specified period or permitting any act to be done only within a specified period.”.

Amendment of section 81 of Act 6 of 2004

28. Section 81 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
- “**Provincial monitoring and reporting**”; and
- (b) by the insertion after subsection (1) of the following subsections:
- “(1A) The critical milestones that must guide monitoring by the MEC for local government as contemplated in subsection (1) include, but are not limited to, whether—
- (a) a municipality has determined a date of valuation for its general valuation in terms of section 31;
- (b) a municipality without in-house valuation capacity, has advertised for the appointment of a valuer by a date determined by the Minister by notice in the *Gazette*;
- (c) a municipality has designated a municipal valuer by a date determined by the Minister by notice in the *Gazette*;
- (d) the municipal manager has submitted a project plan in terms of subsection (1B); and
- (e) the municipal valuer has submitted a certified valuation roll to the municipal manager by the prescribed date.

- (1B) A municipality must—
- (a) by a date determined by the Minister by notice in the *Gazette*, submit a project plan to the MEC for local government outlining detailed actions for the valuation of all properties in the municipal area, indicating when valuations will commence and when valuations will be finalised, including the following milestones:
 - (i) The date of valuation for the next general valuation and the date by which it will be determined in terms of section 31;
 - (ii) the date by which the municipality will advertise for the appointment of a municipal valuer, if the municipality has no in-house valuation capacity;
 - (iii) the date by which the municipality will designate a municipal valuer;
 - (iv) the date by which the municipal manager is to submit quarterly progress reports to the MEC for local government that are based on the municipal valuer's monthly progress reports contemplated in section 34(aA); and
 - (v) the intended date by which the municipal valuer is to submit a certified valuation roll to the municipal manager taking into account the provisions of section 34(d); and
 - (b) by no later than 10 days after the date on which each milestone referred to in paragraphs (a)(i) to (v) should have taken place, submit a report to the MEC for local government regarding the status of that milestone and, if the milestone has not been achieved, the remedial actions to rectify the failure to deliver on the milestones in the action plan, and any deviation in the action plan that will impact on the submission date referred to in subsection (1B).
- (1C) A municipality must submit to the MEC for local government such information, reports, documents, explanations and motivations as may be required by the MEC.
- (1D) (a) The Minister may, by notice in the *Gazette*, determine to which municipalities the provisions of this section apply.
- (b) A determination referred to in paragraph (a) may differentiate between municipalities in terms of categories, types or budgetary size or in any other manner."

Insertion of sections 82A and 82B in Act 6 of 2004

29. The following sections are hereby inserted in the principal Act after section 82:

“Reporting to Minister by municipalities

- 82A.** A municipality must submit reports, in such form and at such intervals as may be prescribed by the Minister on the implementation of provisions of the Act relating to the following matters:
- (a) Categories of property determined, the cent in the Rand rates determined for each category of property, and any rebates, exclusions and exemptions determined for categories of owners;
 - (b) the ratios between residential and all other categories of property;
 - (c) total property rates revenue;
 - (d) total property rates revenue from each category of property;
 - (e) total revenue foregone in respect of any properties subject to partial exclusions, exemptions, rebates and reductions; and
 - (f) any other matter that is prescribed or provided for in the Act.

Reporting to Minister by MECs

- 82B.** The MEC for local government must submit reports in such form and at such intervals as may be prescribed to the Minister on the following matters:
- (a) The granting by the MEC of condonation to municipalities for non-compliance with timeframes as provided for in section 80;

- (b) the granting by the MEC of extension of the period of validity of a municipality's valuation roll in terms of section 32;
- (c) reports outlining the progress with the implementation of the next valuation roll following the extension of the period of validity of the valuation roll;
- (d) the establishment and terms of office of each valuation appeal board in the province; and
- (e) any other matter that is prescribed or provided for in the Act or as required by the Minister."

Amendment of section 83 of Act 6 of 2004

30. Section 83 of principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (e) of the following paragraph:
 - “(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; and
 - (vii) request for review of a supplementary valuation;”;
- (b) by the substitution for subsection (3) of the following subsection:
 - “(3) Regulations in terms of subsection (1) may—
 - (a) treat different categories of properties, or different categories of owners of properties, differently; or
 - (b) differentiate between different kinds of municipalities, which may, for purposes of this section, be defined either in relation to categories, types or budgetary size, or in any other manner.”; and
- (c) by the addition of the following subsection:
 - “(4) (a) The Minister may, by notice in the *Gazette*, delay the implementation of a provision of a regulation made in terms of subsection (1) for a period determined in the notice and on such conditions as may be determined in the notice.
 - (b) The delay in terms of paragraph (a) may—
 - (i) apply to municipalities generally; or
 - (ii) be limited in its application to a particular kind of municipality, which may, for purposes of this section, be defined either in relation to a category, type or budgetary size of municipality or in any other manner.”.

Repeal of sections 88 and 89 of Act 6 of 2004

31. Sections 88 and 89 of the principal Act are hereby repealed.

Insertion of section 89A in Act 6 of 2004

32. The following section is hereby inserted in the principal Act after section 89:

“Transitional arrangements relating to redetermination of municipal boundaries: Use of valuation rolls and supplementary valuation rolls

89A. (1) If, as a result of the redetermination of a municipal boundary in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), an area is included into the existing area of jurisdiction of a municipality, that municipality may—

- (a) continue to use a valuation roll and supplementary valuation roll that was in force in the area that has been included in its area of jurisdiction; and

(b) levy rates against property values as shown on that valuation roll or supplementary valuation roll, until it prepares a valuation roll or supplementary valuation roll that includes such area.

(2) If a municipality uses valuation rolls and supplementary valuation rolls in terms of subsection (1), that municipality may, notwithstanding section 19(1)(a), impose different rates based on the different valuation rolls or supplementary valuation rolls, so that the amount in the Rand on the market value of the property payable on similarly situated property is more or less the same.”.

Substitution of section 90 of Act 6 of 2004

33. The following section is hereby substituted for section 90 of the principal Act:

“Transitional arrangements relating to redetermination of municipal boundaries: Existing rates policies

90. If, as a result of the redetermination of a municipal boundary in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), an area is included into the existing area of jurisdiction of a municipality during the course of a financial year, that municipality may during the financial year in which the inclusion becomes effective and subsequent financial years, until it prepares a valuation roll or a supplementary valuation roll that includes such area—

- (a) continue to use the rating policy and by-laws that were in force in the area that has been included in its area of jurisdiction; and
- (b) levy rates consistent with that rating policy and by-laws.”.

Repeal of sections 91 and 92 of Act 6 of 2004

34. Sections 91 and 92 of the principal Act are hereby repealed.

Insertion of sections 93A and 93B in Act 6 of 2004

35. The following sections are hereby inserted in the principal Act after section 93:

“Transitional arrangement: Public service infrastructure

93A. (1) The prohibition on the levying of rates on public service infrastructure referred in section 17(1)(aA) must be phased in over a period of five municipal financial years, with effect from the date of commencement of this Act.

- (2) The rates levied on property referred to in subsection (1) must—
- (a) in the first year, be no more than 80 per cent of the rate for that year otherwise applicable to that property;
- (b) in the second year, be no more than 60 per cent of the rate for that year otherwise applicable to that property;
- (c) in the third year, be no more than 40 per cent of the rate for that year otherwise applicable to that property;
- (d) in the fourth year be no more than 20 percent of the rate for that year otherwise applicable to that property; and
- (e) in the fifth year, be no more than 10 percent of the rate for that year otherwise applicable to that property.

Transitional arrangement: Differential rates

93B. The provisions of section 8 must be applied by a municipality within seven years of the date of commencement of this Act.”

Short title and commencement

36. (1) This Act is called the Local Government: Municipal Property Rates Amendment Act, 2014 and comes into operation on a date to be determined by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES AMENDMENT BILL, 2014

1. BACKGROUND

Since the first 4 municipalities began valuing and rating in terms of the Local Government: Municipal Property Rates Act, 2004 (“the Act”) on 1 July 2006, municipal practitioners have grappled with the reality of operationalising a piece of legislation that has largely been theoretical since its effective date of 2 July 2005 and became less so as the implementation of its regulatory framework unfolded over the years.

Taking into account lessons learnt from the 27 municipalities that implemented the Act in 2006 and 2007, the Act was amended through the Local Government Laws Amendment Act, 2008.

Having regard to the experience gained with the additional municipalities that implemented the Act from 2008, it has become clear that these lessons learnt from the monitoring of implementation necessitate that the Act be amended yet again to render its implementation more seamless and minimise legal and policy misinterpretations that have arisen. In addition certain key policy amendments are proposed and such proposed amendments are informed by lessons learnt from implementing the regulatory framework of the Act, and continuous engaging with key stakeholders, including individual and organised ratepayers, and practitioners on the challenges encountered with the implementation of the Act over the years in the first phase of its implementation.

2. OBJECTS OF THE BILL

The main object of the Bill is to address the problems that have been experienced in the implementation of the Act since the commencement of the Act and to promote the effective and efficient implementation of the Act.

3. SUMMARY OF THE BILL

Clause 1 inserts various definitions to clarify a variety of matters in the Act that have up to now been so open to interpretation that they hinder the effective implementation of the Act. All of these definitions are introduced so as to render the Act simpler, user friendly, and minimise legal and policy misinterpretations.

Clause 2 provides for the removal of reference to district management areas, a consequential amendment effected because district management areas were discontinued from 18 May 2011 by the Municipal Demarcation Board.

Clause 3 provides for a consequential amendment to section 3 of the Act emanating from the amendment to section 8 and also provides that a rates policy must determine criteria not only for an increase but also for the decrease in rates.

Clause 4 amends section 6 of the Act to indicate that the by-law to give effect to the rates policy must be published in accordance with the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

Clause 5 provides for the deletion of reference to district management areas.

Clause 6 substitutes section 8 of the Act so as to limit the basis for the categorisation of properties to use and permitted use only. Furthermore the list of property categories that must, where applicable, be determined is now set out in subsection (2), with additional property categories provided for in subsection (3). This clause also provides for a municipality to, on good cause shown, apply to the Minister to sub-categorise property categories.

Clause 7 provides for a consequential amendment to section 9(1)(c) emanating from the amendment to section 8.

Clause 8 amends section 11 so as to provide that a rate at a uniform fixed amount may be levied on residential properties only.

Clause 9 amends section 12 so that a rate levied for a financial year may not be increased during the financial year.

Clause 10 amends section 14 to provide for the timeframe of publication of the resolution levying rates in the provincial gazette and for the contents of the resolution.

Clause 11 amends section 15 so as to provide for additional avenues in terms of which a municipality may determine the categories of properties in respect of which a municipality may grant exemptions, rebates or reductions. The clause also removes the obligation on a municipality to annually reflect income foregone in respect of exclusions in terms of various subsections of section 17.

Clause 12 amends section 16 of the Act so as to provide that the limitation of a rate on a specific category of property by the Minister must be determined with the concurrence of the Minister of Finance by notice in the *Gazette*. The clause, in addition, provides that the notice be effective from the date determined by the Minister.

Clause 13 amends section 17 of the Act so as to provide—

- for the exclusion from rates of certain categories of public service infrastructure;
- for the exclusion from rates of mining rights or mining permits, excluding infrastructure above the surface in respect of mining property;
- that the exclusion from rates in respect of land belonging to a land reform beneficiary or his or her heirs includes his or her dependents or spouse, and that this exclusion lapses ten years from the date on which such beneficiary's title was registered or upon alienation of the property;
- that an exclusion from rates in respect of the seashore lapses if any part thereof is alienated;
- that notwithstanding the provisions of section 78, if a property in respect of which the declaration as a special nature reserve is withdrawn is privately owned, the owner, upon withdrawal of the declaration, becomes liable to the municipality concerned for any rates that, had it not been for subsection (1)(e), would have been payable on the property, during the period commencing from the effective date of the current valuation roll of the municipality; and
- that notwithstanding the provisions of section 78, if the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that had it not been for the exclusions provided for in section 17, would have been payable on the property, during the period of one year preceding the date on which the exclusion lapsed.

Clause 14 amends section 19 of the Act so as to provide that a municipality may levy different rates on residential properties if such properties are vacant, and that the ratio referred to in subsection (1)(b) may be subject to the norms and standards as prescribed.

Clause 15 amends section 20 of the Act so as to authorise the Minister with the concurrence of the Minister of Finance to set different limits for different kinds of

municipalities as may be determined and to delay the implementation of a limit contemplated in that section for a pre-determined period.

Clause 16 amends section 25 so as to provide that the owner of exclusive use areas in a sectional title scheme is liable for payment of rates whether this owner is the Body Corporate or owner of a unit in the sectional title scheme.

Clause 17 amends section 27 to provide that the person liable for a rate must furnish the municipality with an address where correspondence can be directed.

Clause 18 amends section 30 so as to provide that properties that are fully excluded from rates need not be valued. In addition, the clause provides that certain properties that are excluded from rates must be included in the valuation roll whether they were valued or not.

Clause 19 amends section 32 so as to provide for different periods of validity of the valuation roll in respect of metropolitan and local municipalities. The clause also provides that the MEC for local government may extend such validity by additional two years.

Clause 20 amends section 34 so as to make it a requirement that a municipal valuer submits a monthly progress report to the municipal manager on the valuation of property.

Clause 21 amends section 42 so as to make it mandatory that the body corporate or the managing association controlling a sectional title scheme and a share block company respectively must give the valuer access to documents or information required by the valuer for the purposes of valuing the property.

Clause 22 amends section 55 so as to remove the requirement for the payment of interest by a property owner affected by an upward adjustment of the valuation of their property and to provide for the municipality to repay a property owner with interest where there is a downward adjustment of the valuation of a property.

Clause 23 amends section 56 so as to delete the mandatory requirement for the establishment of a valuation appeal board in every district municipality, and deletes subsection (2) that makes reference to district management areas.

Clause 24 amends section 58 so as to provide that the membership of an appeal board may include a professional associated valuer without restrictions and with at least ten years experience.

Clause 25 amends section 68 to provide that a quorum of an appeal board must include the valuer.

Clause 26 amends section 78 so as to extend the circumstances under which a supplementary valuation must be made to include a property the value of which was incorrectly recorded in the valuation roll as a result of a clerical or typing error; to amend the dates on which a supplementary valuation takes effect and the dates from which rates are payable on properties affected by a supplementary valuation. In addition the clause provides for the notification of owners of properties affected by a supplementary valuation.

Clause 27 amends section 80 to limit condonation by the MEC for non-compliance with certain timeframes prescribed in the Act to municipalities only.

Clause 28 amends section 81 so as to equip the MEC for local government to more effectively monitor municipalities in the implementation of the Act particularly the process of the compilation of a valuation roll and to generally strengthen the monitoring and reporting of compliance provisions of the Act.

Clause 29 inserts new sections 82A and 82B to strengthen the monitoring and reporting of compliance by the municipality to the Minister and the MEC to the Minister.

Clause 30 amends section 83 so as to provide for the form for a request for review of a supplementary valuation, appropriate differentiation in the implementation of the regulatory framework of the Act and to provide for phasing in of the regulatory framework of the Act where necessary.

Clause 31 repeals sections 88 and 89 as these sections no longer serve any purpose.

Clause 32 inserts a new section 89A, to provide for transitional arrangements regarding the use of valuation rolls and supplementary valuation rolls in instances where there is a redetermination of a municipal boundary.

Clause 33 substitutes section 90 so as to provide for transitional arrangements regarding the use of existing rates policies and by-laws in instances where there is a redetermination of a municipal boundary.

Clause 34 repeals sections 91 and 92 as these sections no longer serve any purpose.

Clause 35 inserts new sections 93A and 93B which provide for the phasing in of the prohibition on the levying of rates on certain types of public service infrastructure and differential rates.

Clause 36 contains the short title and provides for the commencement date to be determined by the President by Proclamation in the *Gazette*.

PARTIES CONSULTED

The following parties have been consulted:

- National Treasury;
- South African Local Government Association (SALGA);
- Financial and Fiscal Commission (FFC);
- Institute for Municipal Finance Officers (IMFO);
- National House of Traditional Leaders;
- The Cooperative Governance and Traditional Affairs MinMEC;

Public hearings were held in all nine provinces in which ratepayers, stakeholders and general members of the public participated;

FINANCIAL IMPLICATIONS

4. FINANCIAL IMPLICATIONS FOR PROVINCES

Financial implications are envisaged to the extent that provincial departments responsible for local government will have to augment their establishments in a manner that allows the MEC responsible for local government in a province to perform hands-on monitoring of municipal implementation of the Act taking into account the detailed monitoring provisions expressed in the amendments to section 81 and those connected thereto in particular. It must be emphasised that despite the proposed amendments to the Act, provincial departments responsible for local government should ideally have commensurate establishments if they are to fulfil their constitutional monitoring and support role in terms of the Act (whether amended or not).

5. FINANCIAL IMPLICATIONS FOR MUNICIPALITIES

It is envisaged that the provisions to exclude certain public service infrastructure (PSI) from rating are the main provisions that will have financial implications that are of significance, in particular for those municipalities that currently rate such PSI. Out of the 257 municipalities that have the power to levy property rates 71 municipalities that responded to a targeted survey reported rating PSI in the 2009/10 and 2010/11 financial years and the estimated financial implications of excluding PSI from rating would be approximately R73,993,000, about 0.43% of their estimated total rates revenue.

6. PARLIAMENTARY PROCEDURE

- 6.1 The State Law Advisers and the Department of Cooperative Governance are of the opinion that the Amendment Bill must be dealt with in accordance with the procedure prescribed by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution apply.
- 6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.