

THE RATING ACT, 1995

Date of commencement: 1st April, 1996.

An Act to repeal and replace the Rating Act, 1967.

Arrangement of sections.

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PART I

PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Rating Act, 1995 and shall come into force on such date as the Minister may, by notice in the Gazette, appoint.

Interpretation.

2. In this Act—

“area” in relation to a local authority, means as the circumstances require —

- (a) the town board, town council, or city council area in accordance with the law establishing the town board, town council, or city council; or
- (b) the area of the local government organ in accordance with the law establishing such organ;

“council” means a town or city council, as the case may be, established under the Urban Government Act, 1969;

“councillor” means a person elected or appointed as a member of a council;

“financial year” in relation to any local authority, means any period of twelve months which the Minister may, by notice published in the Gazette, appoint in respect of such local authority;

“immovable property” means land and improvements thereon but does not include a street;

“improvements” means any building, structure or erection of an immovable nature for whatever purpose it is used including, in particular, but without affecting the generality of the foregoing, any tank or silo, any swimming bath and any tennis court, but excluding any —

- (a) plant or machinery;
- (b) tank or silo having a capacity of less than 3,000 cubic feet (85 cubic metres);
- (c) embankment or terrace or any culvert or drain or any other structure used solely for the purpose of draining any land;
- (d) bridge, ramp, or railway track;
- (e) electricity supply lines and transformers, public water supplies and sewerage plant or equipment;
- (f) public telephone lines and facilities; and,
- (g) any other public service utility from time to time approved by the Minister;

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“local authority” means —

- (a) a Town Board, Town Council, or City Council established under the Urban Government Act, 1969;
- (b) any other organ of local government duly established under any law; or,
- (c) in respect of any area not falling under paragraph (a) or (b), the Minister;

“magistrate” means a magistrate for the purposes of the Magistrate’s Courts Act, 1938;

“market value” means the amount for which immovable property may be sold or purchased in an open market transaction on the date of valuation;

“Minister” means the Minister responsible for Urban Government;

“occupier” means a person in actual occupation of immovable property, without regard to the title under which he occupies;

“owner” in relation to immovable property means —

- (a) the person in whom the legal title to such property is vested;
- (b) where the person in whom the legal title to such property is vested, is insolvent or dead or of unsound mind, or in the case of a company that is being wound up, the person in whom the administration of such property vests;
- (c) where such property has been leased for a period of fifty years or more, the lessee of such property;
- (d) where the person who is the owner of such property in terms of paragraphs (a), (b), or (c), as the case may be, is absent, his agent;
- (e) where such property is beneficially occupied under a fideicommissum, usufruct or other servitude, or right analogous thereto, the occupier of such property;
- (f) any person who has purchased such property from the Government or a local authority but has not yet received transfer thereof, including every such person who pays the purchase price in instalments;

“person” includes company or association or body of persons, whether corporate or unincorporated, a local authority, and the Government;

“Principal Secretary”, means the Principal Secretary of the Ministry responsible for Urban Government;

“public place” means a street, square, park, recreation ground, garden, commonage, or open space in the area of a local authority which —

- (a) is vested by deed of title or by any law in Government or such local authority for the use and benefit of the public; or,
- (b) the public has the right to use without charge;

“railway track” means rails and sleepers, together with all earthworks, ballast, fittings, fastenings, and devices installed in connection with tract or train operation, and in addition all bridges, platforms, loading bays, cattle pens, culverts, inspection and ash pits, signals and signal installations, tracks, signs and warning boards, telecommunication installations, centralized train control gear, rolling stock, weighbridges, locomotive and train watering installations, coaling plants, electric power transmission lines, poles, pylons, transformers and switchgear used in connection with track and train operations, whether they are situate within or without buildings, if they are used for the normal working of the railway;

“rateable property” means immovable property in respect of which the owner is not wholly exempted from the payment of rates in terms of section 7;

“rateable value”, means the market value of the land or the improvements or a combination thereof, as determined by the Council under section 6;

“rate” means the percentage of rateable value set annually by the Council and includes penalty, collection charge, or costs allowed in legal proceedings payable in terms of this Act;

“street” means street, road, lane, avenue, by-road, passage, thoroughfare or other right of way and includes bridge, subway, pavement, footpath, sidewalk, drain, culvert, or the like therein;

“time of valuation” means, in respect of —

- (a) a general valuation, the date of the passing of the resolution of the local authority causing the valuation to be made; and,
- (b) a supplementary valuation, the time of valuation applying to the immediately preceding general valuation;

“town” or “township” means a town, city, or township, including a private township or human settlement, established or recognized as such or deemed to be such under any law;

“town clerk” means the chief executive officer of a local authority or the Principal Secretary where the Minister is the local authority;

“treasurer” means the officer appointed by the local authority to be responsible for managing the financial business of such authority;

“valuer” means a competent person or firm in the private or public sector, in the valuation of immovable property appointed by the Minister to a panel of valuers;

“valuation court” means a court appointed under section 18.

Application.

3. (1) This Act shall apply to the areas referred to in Part I of the Schedule.
- (2) The Minister may, by notice in the Gazette, amend the Schedule.

(ISSUE 2)

PART II

RATING OF IMMOVALE PROPERTY

General rate.

4. Subject to this Act, the local authority shall make, assess and levy a general rate each financial year upon all immovable property within the area of such local authority, if it is an area to which this Act applies, as specified in Part I of the Schedule.

Differential rates.

5. (1) Notwithstanding section 4, the local authority may make, assess and levy a differential rate, which may be higher or lower than the general rate, upon specified categories of residential or non-residential immovable property.

(2) (a) Prior to assessing a rate under this section, the local authority shall specify the categories of immovable property that will be subject to differential rating, and shall give notice of such proposed categorization, together with the reasons therefor, in the Gazette and at least once in a newspaper circulating in Swaziland.

(b) The local authority shall give due consideration to any representations received within 30 days of publication of this notice in the Gazette.

(3) The categorization of immovable property for differential rating shall be subject to the approval of the Minister.

Method of rating.

6. (1) (a) Each rate shall be made, levied and assessed on immovable property on the basis of the valuation of the land and improvements thereon.

(b) The rates may be made, levied and assessed on the valuation of the land, the improvements, a combination thereof or the total valuation of the property.

(c) If the combination option is used, separate rates may be applied to the land and improvements components of the valuation.

(2) The local authority shall obtain the approval of the Minister for the rating method determined under subsection (1) and thereafter, until the local authority determines otherwise with the approval of the Minister, all rates shall be made, levied and assessed accordingly.

Exemptions from rates.

7. (1) Subject to subsections (3), (4) and (5), the following shall be exempt from the payment of rates, namely immovable property used exclusively throughout the year for purposes of —

- (i) public worship;
- (ii) a school, college or university, including its boarding establishment or recreation ground or the like provided for the accommodation, use or enjoyment of students or scholars attending such school, college or university;

- (iii) any bona fide registered charitable institution maintained by any company, society or other association of persons;
- (iv) a public library, museum or art gallery;
- (v) a hospital, clinic, or health centre;
- (vi) a cemetery or crematorium;
- (vii) any public place as defined in section 3; and
- (viii) any other purpose, approved by the Minister, after consultation with the local authority, as being for the public benefit.

(2) In addition to the properties referred to in subsection (1), the following properties shall also be exempt from the payment of rates:

- (a) properties registered in the name of the INgwenyama and the INdlovukazi;
- (b) properties registered in the name of the INgwenyama in trust for the Swazi Nation:

Provided they are not used for any purpose mentioned in subsection (3)(a), (b) and (c); and

- (c) properties owned by foreign governments and used for diplomatic purposes.

(3) No exemption from rates shall be granted in respect of any immovable property by virtue of subsection (1) —

- (a) if the use of such property has as one of its objects the private pecuniary profit of any person, whether as a shareholder in a company or otherwise;
- (b) if any rent, other than a nominal rent, is paid to the owner, lessee or occupier of any such property; or
- (c) where such property is used for the residential accommodation of members of the staff or staff of any institution referred to therein.

(4) If, during the currency of any financial year, immovable property is used for any purpose other than a purpose hereby exempted, the local authority shall impose rates thereon, or on such portion thereof so used, at a rate proportionate to the period of such use.

(5) Immovable property, or any part thereof, which is exempt from rates under this section shall become rateable and rates shall be deemed to have been made and levied thereon from the date on which it ceases to comply with the conditions conferring exemption.

(6) Nothing hereinbefore contained shall be deemed to exempt any property from payment for water, rubbish removal, sewerage and sanitation fees, or charges which may be payable under any other law.

Exemption from tax not exemption from rates.

8. Notwithstanding the provisions of any other law exempting any rateable property from payment of tax generally or from particular types of tax, no owner of rateable property shall be exempt from the payment of rates unless specifically exempted under this Act.

Determination of exemption from rates.

9. (1) The local authority shall cause to be prepared and maintained an up-to-date list of all immovable property which is exempted from the payment of rates in terms of section 7.

(2) No rates shall be assessed or levied in respect of immovable property included in such list until it is removed there from but, on such removal, rates shall be payable with retrospective effect as provided in section 7(5).

(3) An owner of immovable property, which he claims is exempted from the payment of rates by reason of section 7, shall be entitled to apply to the local authority for such property to be included in the list mentioned in subsection (1) —

- (a) within sixty days of the dispatch to him of a demand for the payment of rates upon such property; or,
- (b) if rateable property becomes exempt from the payment of rates during the course of a financial year, within sixty days of the date on which such owner claims such property became exempt;

and, if the application is granted, such exemption shall have retrospective effect from the commencement of the financial year concerned or the date on which the circumstances giving rise to exemption first applied, whichever is the later.

(4) For the purposes of determining whether or not immovable property is exempted from the payment of rates, the owner may be called upon to furnish all particulars which the local authority may require in order to reach a decision, and any person who —

- (a) refuses or fails to the best of his ability to answer any question put to him or to comply with any reasonable requirement of such local authority in this respect; or
- (b) wilfully furnishes false particulars to such local authority;

shall be guilty of an offence.

(5) If immovable property which is exempted from the payment of rates forms part of a property shown in the valuation roll and there is a dispute as to the respective values of the exempted portion and rateable portion of such property, the matter shall be referred to a valuer who shall issue a certificate giving his valuation of each portion separately:

Provided that, if the owner or the local authority is aggrieved by the decision of such valuer, either may lodge an objection with the Town Clerk, and such objection shall be considered by the valuation court as though it were an objection lodged in accordance with section 16.

(6) This section shall not affect the right of the Minister, a ratepayer or duly appointed auditor to question the correctness in law of the inclusion of immovable property in the list of property exempted from the payment of rates or to test the matter in a competent court of law, or the right of an owner of immovable property to test, in a competent court of law, the refusal of a local authority to treat his property as exempted from rates.

PART III

VALUATION

General valuation.

10. (1) For purposes of assessing the rates, the local authority shall from time to time, but not less than once in every five years, or such longer or shorter period as the Minister may

approve, cause a valuation to be made of all immovable property within its area and cause a valuation roll to be prepared as hereinafter provided.

(2) The Minister shall from time to time, by notice in the Gazette and with the written consent of each of them, appoint a panel of eligible valuers to carry out valuations in terms of this Act.

(3) A valuer appointed by the Minister shall remain on the panel until such appointment is revoked by the Minister.

(4) The valuers appointed by the Minister shall be the only valuers from amongst whom a local authority may employ to carry out any valuations in its area in terms of this Act.

Declaration of valuer

11. (1) Every valuer, prior to being appointed to the panel of valuers, shall make a declaration before a Commissioner of Oaths in the terms set out in Part II of the Schedule and it shall be lodged with and preserved by the local authority and a copy kept with each valuation roll after it has been prepared.

(2) Every valuer shall, on completion of the valuation entrusted to him, attach to the valuation a certificate, under his hand, in the terms set out in Part III of the Schedule.

Draft valuation roll.

12. Every valuer shall prepare such valuation (hereinafter referred to as the draft valuation roll) in writing in a form approved by the Minister and in a manner which will show, under separate headings, to the best of his knowledge and opinion, in respect of each separate property —

- (a) the description of the land;
- (b) the area of the land;
- (c) the situation of the land;
- (d) the designated zoning of the land;
- (e) the name and address of the owner;
- (f) the nature of the use of the land and improvements;
- (g) the value of the land without improvements;
- (h) the value of improvements;
- (i) the total improved value of the land; and
- (j) such other matters as the Minister may direct to be shown.

Basis of valuation.

13. (1) The basis of the valuation of land shall be the market value of such land and any improvements thereon.

(2) In valuing any property under this section, the valuer shall not take into account any value accruing to the property by reason of the presence or proximity of precious stones, precious or base metals or minerals.

Power of entry and inspection.

14. (1) A valuer or an officially designated assistant to such valuer, duly provided with written authority signed by the Town Clerk, may, for the purpose of making a valuation under this Act, enter at all reasonable hours in the day-time into and upon any land or buildings within the area of the local authority.

(2) A valuer furnished with written authority signed by the Minister or the Principal Secretary may, for the purposes of making a valuation under this Act, also inspect and make extracts from such registers or other reports or deeds or instruments, belonging to or in the custody or possession of any Government officer or any person, as contain particulars of any immovable property.

(3) A valuer may require the owner or any person in occupation or charge of any immovable property to furnish him with information upon all matters which may be necessary to enable him correctly to value such property, including the names of the owner and occupier thereof and any other necessary particulars.

(4) A person shall be guilty of an offence if he —

(a) makes any statement to a valuer knowing it to be false;

(b) refuses or fails, to answer any question put to him or comply with any reasonable requirement made by the valuer in exercise of his functions; or

(c) wilfully obstructs the valuer in any way from exercising the powers conferred on him under this section.

Returns to be made by owner or occupier

15. (1) The valuer may serve a notice on the owner or occupier requiring him to render a return of such information as the valuer may deem necessary to enable the valuer to value the property.

(2) A person on whom a notice has been served under subsection (1) shall comply with it not later than twenty-one days after service of the notice on him.

(3) A person who fails to comply with subsection (2) or who makes a false statement in a return made under subsection (1) shall be guilty of an offence.

(4) In any proceedings a statement in a return made under subsection (1) shall be deemed to be true unless the contrary is proved.

Inspection of and objections to the draft valuation roll.

16. Upon completion, the draft valuation roll shall be delivered to the local authority, which shall review it to ensure compliance with this Act, and no later than 30 days after delivery of the draft valuation roll, the local authority shall cause a notice to be published, in the Gazette and in at least one newspaper circulating in Swaziland —

(a) stating that a copy of such draft valuation roll is open for public inspection at the office of such local authority, and that any person may, free of charge, inspect it and take copies or extracts therefrom during the hours specified in such notice;

- (b) stating that such local authority or the owner or occupier of any property included in such draft valuation roll, or their duly authorised representatives, may make an objection to any valuation, or in respect of any other error, omission or misdescription in such roll, in the case of —
 - (i) a local authority, in respect of any property; and,
 - (ii) an owner or occupier of property, in respect of the property;
- (c) appointing a date, which shall be at least thirty days after the date of first publication of such notice in such newspaper, or before which any objection to such roll shall be lodged within the town clerk;
- (d) stating that an objector must lodge his notice of objection in the form prescribed and set out the grounds upon which his objection is based, and inviting attention to the fact that no person is entitled to urge any objection before such valuation court unless he first lodges his notice of objection, in the prescribed form, within the time advertised; and
- (e) appointing a date which shall be no later than 60 days after the date of first publication of such notice in the Gazette, specifying the date and place at which a valuation court will sit to consider and determine any objection duly lodged in accordance with this section.

Notification of valuation to owners.

17. (1) Not later than seven days after publication of the notice under section 16, the local authority shall cause to be served, on every person whose name and address appears on the draft valuation roll as owner of immovable property, a notice incorporating as near as may be the terms of the first-mentioned notice and the information contained in the draft valuation roll pertaining to that property.

(2) The town clerk shall make a written declaration before a Commissioner of Oaths that the provisions of subsection (1) have been complied with, and subsequent to this declaration, non-receipt of such notice or any error therein shall not invalidate the valuation roll or the proceedings of the valuation court or affect the liability of an owner to the payment of rates.

Appointment of valuation court.

18. (1) The Minister shall establish a valuation court for each local authority and shall appoint members of the court consisting of a President and two other members.

(2) In appointing the members, the Minister shall specify in respect of each member, the period of such appointment.

(3) The President of the valuation court shall be a magistrate or legal practitioner in terms of the Legal Practitioners Act, 1964, of not less than five years' standing.

(4) One member shall be chosen by the Minister and the other member shall be nominated by the local authority:

Provided that at least one member shall be a qualified valuer.

(5) The Minister may appoint one or more alternate members to the valuation court, one of whom may act in place of any member at any sitting of the valuation court from which such member is absent.

(6) The President and one member who is a qualified valuer shall constitute a quorum and all decisions of the valuation court shall be by vote of the majority of the members present:

Provided that, in the event of equality of votes, the President shall have a casting vote; and

Provided further that any member shall not be a current Councillor or a Council employee.

(7) No person shall sit as a member of a valuation court hearing any matter in which he is directly interested or concerned as being primarily liable to pay the rates in question or part thereof, and if he does so he shall be guilty of an offence.

(8) The Minister shall appoint a person to act as clerk to the valuation court, and the names of all members of such court and such clerk shall be shown at the front of the draft valuation roll.

(9) The local authority shall pay the President, members, and clerk of a valuation court such fees and allowances as may, from time to time, be prescribed by the Minister for Finance.

Hearing of objections.

19. (1) The valuation court shall meet as directed by the President to hear and determine all objections duly lodged or deemed to be lodged in accordance with section 16 and a sitting of such court may be adjourned from time to time until all objections have been heard and determined.

(2) The clerk to the valuation court shall, in the prescribed form, cause all interested parties to any objection to be summoned to attend such court.

(3) The valuation court shall be entitled to make such alteration or amendments in the draft valuation roll either by way of reduction, addition or omission to the draft valuation roll as may seem expedient to it after considering any objections duly made:

Provided that no alteration or amendment by way of increase or addition to such draft roll shall be made unless a notice has been served at least seven days prior to the sitting of the valuation court at which it is intended to consider such proposed increase or addition on the owner or person appearing to be directly affected thereby informing him of such intention and advising him that he or his representative may forward any objection to such increase or addition in writing to the clerk of such court before such date, or present such objection for consideration at such sitting, and such valuation court shall duly hear and consider all such objections.

(4) The valuer, by whom any valuations under consideration are made, shall attend the sitting of the valuation court at which they are considered and answer on oath or affirmation all questions which may be put to him by or through such court in regards thereto:

Provided that the non-attendance of the valuer shall not invalidate the valuations made by him, or the proceedings of the valuation court.

(5) At every sitting of such court, the local authority and any person who has lodged an objection to the draft valuation roll, and any person the valuation of whose property is objected to or proposed to be increased, or whose property it is proposed to add to the draft valuation roll, may appear either in person or by an authorised representative.

(6) The court may take the evidence of witnesses on oath or affirmation, and call for the production of all such papers or documents at it may deem necessary.

(7) Any person who, after being duly sworn or affirmed, gives false evidence before the valuation court knowing such evidence to be false or not believing in its truth, shall be guilty of an offence and liable, on conviction, to the penalties which may be imposed for perjury.

(8) The court shall keep a record of its proceedings, a note of the valuation objection, and the finding in regard to each objection, and shall notify the owner of the property concerned of such finding, and shall cause a note to be taken of any evidence given before it.

Certification of valuation roll.

20. (1) The draft valuation roll shall be presented to the valuation court and upon the signing and certification of the same in the prescribed form, the draft valuation roll shall become the valuation roll.

(2) Upon the certification provided for in subsection (1) the draft valuation roll shall become the valuation roll and on coming into operation under section 22 shall supersede any previous valuation roll and be *prima facie* evidence of the liability of every person named therein for the payment of rates in respect of the rateable property mentioned therein on the basis of the value of such property.

Minor errors in the valuation roll.

21. (1) No valuation contained in any valuation roll prepared under this Act and no rate based on such valuation shall be rendered void or be affected by reason of any mistake or variance in the description of any property or in the name of its owner, and no valuation roll made up and certified shall be challenged or set aside by reason of any formal defect.

(2) The local authority may alter the draft valuation roll and valuation roll in force and correct any —

- (a) clerical error not affecting any valuation;
- (b) error as to, or to record any change in, the name or address of an owner; and
- (c) error in the description or nature of use of any immovable property.

Date of operation of the valuation roll.

22. (1) The valuation roll shall come into operation with effect from the commencement of the financial year following the certification of the valuation roll under section 20.

(2) Notwithstanding subsection (1), the Minister may, at the request of the local authority, appoint some other date on which the valuation roll shall come into operation.

Purchase and inspection of the valuation roll.

23. (1) The valuation roll shall be kept at the office of the local authority which shall cause copies thereof to be printed or typed and made available for sale to the public at such price as, in its opinion, is reasonable.

(2) Any person may inspect the valuation roll of the local authority during normal office hours and make extracts therefrom.

Supplementary valuations.

24. (1) A local authority may, on its own initiative and shall, at the request of any owner of rateable property, at any time after the valuation roll has come into operation under section 22 cause a supplementary valuation to be made of —

- (a) any immovable property which has been omitted from the valuation roll to be valued;
- (b) any immovable property which has been added to a local authority area by reason of the alteration of the boundaries thereof to be valued;
- (c) any new improvements which have been erected or partially completed and partially occupied to be valued;
- (d) the value of any improvements which have been demolished wholly or in part to be revised as from the date of the demolition or partial demolition;
- (e) a fresh valuation to be made of any immovable property which has materially increased or decreased in value; and
- (f) a fresh valuation to be made of any immovable property which is subdivided or consolidated:

Provided that the subdivision shall be deemed to have taken place on the date on which the Surveyor General approves the plans and diagrams relating to such subdivision, or, if his approval thereto is subject to conditions, on the date on which all such conditions are satisfied.

(2) An immovable property included in the supplementary valuation in terms of subsection (1) shall be valued at the market value prevailing at the date immediately preceding general valuation.

(3) The local authority shall cause a notice containing particulars of the valuation to be served on every person whose name and address is known to the local authority and whose property is affected by a supplementary valuation, and shall mention the right of objection on publication of the draft supplementary roll under subsection (5) and specify the date by which such objection shall be lodged.

(4) A supplementary valuation roll shall be prepared for each financial year following the year of general valuation, to include any alterations and additions permitted under subsection (1).

(5) The preparation of a draft supplementary valuation roll shall take the same form and procedure that is followed in the preparation of the draft valuation roll including the right to hearing and objection.

(6) Where a supplementary valuation affects immovable property included in the valuation roll, the valuer shall show the revised particulars in respect of such property in the supplementary valuation roll and the valuation court shall cause the existing entry in the valuation roll to be deleted with effect from the date on which such supplementary valuation came into force as provided in subsection (1).

(7) Upon certification under section 20, the supplementary valuation roll shall become in all respects part of the valuation roll in force in the area of the local authority, and any reference to such valuation roll shall be deemed to include any such supplementary roll.

(8) The local authority shall levy and collect rates in respect of all immovable property included in the supplementary valuation roll from the commencement of the financial year following the certification of such roll by the valuation court.

Right of appeal.

25. (1) A person, including the local authority, who is aggrieved by a decision of a valuation court, may appeal to the High Court on a question of law.

(2) Notice of appeal shall be delivered in terms of the rules of the High Court within one month of the date on which notification of the decision appealed against was given, and shall set out the legal point in dispute in the form of a special case which may be argued before and determined by the High Court, which may make such order as to costs as such court thinks fit.

(3) The valuation court shall amend the valuation roll in accordance with the decision or direction of the High Court, and such amendment shall form part of the valuation roll with effect from and including the date such valuation roll came into operation.

PART IV

ASSESSMENT AND COLLECTION OF RATES

Collector of rates.

26. The treasurer shall be the collector of rates and, subject to section 32, may, under that title, sue for and recover all rates which are due and payable to the local authority.

Notification of rates and date of payment.

27. (1) Upon the local authority levying and assessing a rate under sections 4 and 5, it shall cause to be published in the Gazette and in at least one newspaper circulating in Swaziland and to be posted at the offices of the local authority, a notice —

- (a) setting forth the amount of the rate made and levied by it;
- (b) appointing a date on which such rate becomes due and payable, which shall be not less than thirty days after publication of such notice in the Gazette; and
- (c) stating that a penalty will become payable in respect of any rate remaining unpaid after the expiry of two months from the date appointed under paragraph (b).

(2) Notwithstanding this Act, the local authority may agree with a ratepayer for the payment of rates by monthly instalments during the financial year in respect of which the rates are payable and, while the terms of the agreement are being observed, sections 30 and 32(1) shall not apply.

(3) In cases of default occurring after the return referred to in section 32(1) has been rendered, supplementary returns of defaulters shall be compiled and dealt with in the terms of that subsection.

(4) The date on which such rate becomes due and payable shall not be affected by reason of any outstanding objection or appeal made under sections 16, 24 or 25 as the case may be:

Provided that if the value of any property is increased or decreased in determining such objection or appeal, the local authority may collect additional rates which may become due by reason of an increase or refund to the owner any difference in the case of a decrease in the value of the property concerned.

Assessment of rates.

28. All rates made and levied by the local authority shall be assessed on the valuation roll or the supplementary valuation roll in operation for the financial year in respect of which such rates are due.

Liability for rates.

29. A rate is a tax upon rateable property and shall be paid at the office of the local authority by the person who is the owner of such property at the time such rate becomes due.

Penalty for late payment of rates.

30. If the owner defaults to pay the rate in terms of section 29 he shall be liable to pay the sum owed plus 15% (fifteen per centum) per annum for each month or part of a month for which the default continues and the percentage payable on default may, by notice in the Gazette, be altered by the Minister:

Provided that, if an explanation for such default is given to the satisfaction of the collector of rates, the collector of rates may agree to waive such penalty either in whole or in part; and

Provided further that, the collector of rates shall render a return to the local authority for the purpose of confirmation in respect of such waiver on a quarterly basis.

Recovery of rate.

31. (1) As soon as reasonably possible after the publication of the notice referred to in section 27, the collector of rates shall issue to the owner of every rateable property included in the valuation roll a notice —

- (a) stating the amount of the rate owing and the date on which the rate is due and payable;
- (b) setting out the description of such property and the value thereof as shown in the valuation roll; and
- (c) drawing the attention of the owner to the provisions of section 30 relating to the penalty for late payment of rate:

Provided that a person who is the owner of rateable property on the first day of each financial year shall be liable, assessed and levied with that financial year's rates relating to that rateable property; and

Provided further than in the event of a sale and transfer of the rateable property during the financial year, the seller or transferor shall have legal recourse to recover from the buyer or transferee the proportion of rates thereby prepaid, and this shall lie as a claim against the buyer or transferee of the rateable property.

(2) The collector of rates shall issue a notice, in terms of subsection (1), to every person who becomes liable to pay new or increased rates by reason of sections 7(4) or 24(1).

(3) If the owner of any property fails to pay the rate or any part thereof, owing in respect of the property, on or before the expiry of one month from the date on which such rate becomes due, a final demand in writing shall be made by the collector of rates and served on the owner requiring him to pay the amount stated therein within fourteen days of the service thereof.

Legal proceedings for recovery of rates.

32. (1) As soon as is reasonably possible after the expiry of two months from the date on which the rate became due and payable, the collector of rates shall render a return to the local authority setting forth the names of all owners of property in default and the amounts of rates owing by each; and thereupon such local authority may cause legal proceedings to be instituted for the recovery of the amounts of the rates owing and any penalties accruing thereon, together with a charge at the rate of fifteen per centum of the amount owing at the commencement of proceedings to cover the cost of collection in addition to costs allowed in such proceedings:

Provided that such proceedings shall be instituted within two years of the date on which such rate became due and payable, unless the Minister, at the request of the local authority, authorises it to defer the institution of the proceedings generally or in particular cases for such period as he may determine.

(2) The proceedings for the recovery of rates shall comply with the following —

- (a) the local authority shall file with the clerk of the court a statement certified by the treasurer, on oath, setting forth the amount of rates payable by the owner;
- (b) a copy of such statement shall be posted by the treasurer to the owner on the same day as the statement is filed with the clerk of such court;
- (c) the statement referred to in paragraphs (a) and (b) shall contain a copy of the provisions of this subsection and sections 29, 30 and 31; and
- (d) upon receipt of such statement, the clerk of such court shall enter judgment in the records of such court in favour of the local authority against the owner.

(3) If any rate, or part of any rate, remains unpaid after the end of the financial year for which it was levied, and for the satisfaction of which no sufficient execution can be made

- (a) after the expiry of such financial year, the local authority shall cause to be inserted, in the Gazette and in at least one newspaper circulating in Swaziland, particulars of every such property and of the rates payable together with a notice requiring the owner, by name, if known, or otherwise whom it may concern, to make payment of such amount, and any accruing penalties thereon, within two months from the date of publication of such notice in the Gazette, or newspaper and stating that, in default thereof, application will be made to court to order such property to be sold at public auction (subject to such further notice, if any, as the court deems necessary)

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in satisfaction of the rates which will be due in respect of such property up to and at the time of such application, and of all rates that may accrue between the date of such application and such sale; and

- (b) where the default continues upon the expiry of the notice in terms of paragraph (a), such local authority shall ascertain from the Registrar of Deeds the names of the registered owner of such property, the name of the holder of a mortgage bond or interest registered over the property and the nature of the interest registered over the property and shall make application to the court and prosecute the proceedings to their conclusion without further delay; and the court may, upon certification of the rates payable in the manner provided in subsection (2) and that the conditions in this section prescribed have been fulfilled, summarily order such property, or so much of it as is sufficient to satisfy the rates payable and accruing, to be sold by public auction and the proceeds paid into court, and direct payment out of those proceeds, of the rates payable to the local authority, together with the costs of such application and all expenses of sale, in preference to any mortgage, security or claim whatsoever, affecting the property so sold:

Provided that proceedings in terms of this subsection shall, in any case, be instituted within three years of the date on which the judgment was entered, unless the Minister, if so requested by the local authority, authorises it to defer, for such period as he may determine, the institution of the proceedings generally, or in particular cases; and

Provided further that in all other respects such sale shall be deemed to be a sale immovable property in execution of a judgment of such a court; and

Provided further that the local authority shall notify all parties who have a registered interest in the subject property, of the sale, at least 30 days prior to the date of public auction of such property.

(4) For the purposes of this section, "court" means a magistrate's court of the first class and such court shall have jurisdiction notwithstanding that the amount claimed by the local authority of the value of the property involved exceeds the limits of its jurisdiction.

(5) A judgment issued by the court under subsection 32(3)(b) shall, notwithstanding anything to the contrary, be acceptable to effect registration of immovable property under the Deeds Registry Act of 1968.

(6) For the purposes of the law relating to insolvency, rates are a tax on property.

Certificate for transfer of immovable property.

33. (1) No transfer of any immovable property in a local authority area shall be registered by the Registrar of Deeds until there has been exhibited to him/her a certificate, signed by the collector of rates, that all rates payable in respect thereof have been paid, and indicating therein the period during which such certificate shall be available, such period being based upon a date not later than that upon which further rates in respect of such property may become due and payable:

Provided that in the case of subdivided land, such certificates shall be required for both the pre-subdivided land and the resultant lots.

(2) The certificate referred to in subsection (1) shall also cover any amount owing to the local authority by the owner by way of any fees or charges which may be payable under any other law, in respect of the property.

(3) Each financial year, the town clerk shall forward to the Registrar of Deeds a copy of every notice published under section 27(1).

(4) A fee prescribed by the local authority shall be paid by the seller of the property to the local authority for each certificate issued in terms of subsection (1). Such fee shall be sufficient to recoup the costs of issuing the certificate.

Rateable property becoming exempt from rates.

34. (1) If, at any time during the financial year, immovable property, which is rateable property at the commencement of such year, becomes exempt from the payment of rates, the local authority is entitled to collect an amount in respect of rates bearing the same proportion to the total rates which would have been payable had the property remained rateable for the whole financial year, as the portion of the financial year, which expired before such property became exempt, bears to the whole financial year.

(2) If the property becomes exempt during the period between the commencement of the financial year and the date on which the rates would otherwise be due and payable, the collector of rates shall fix an amount calculated, in terms of subsection (1), in respect of the rates due and payable for that portion of the financial year in which the property is rateable and shall give notice thereof to the owner of such property in terms of section 31(1).

(3) If the property becomes exempt after the date on which the rates become due and payable, the local authority shall make a refund to any person who has paid, or discharge from liability any person who is liable for any rates in respect of such property, of an amount bearing the same proportion to the total rates, in respect of such property, as the portion of the financial year in which it is exempt bears to the whole financial year.

Remission of rates.

35. A local authority shall not remit a rate due under this Act except where any immovable property has been added to a local authority area by reason of the alteration of its boundaries, whereupon such local authority may, with the approval of the Minister, remit an amount not exceeding fifty per centum of the rate due in respect of the financial year during which such boundary alteration took place and the next two succeeding financial years.

PART V

MISCELLANEOUS

Returns of transfers of property.

36. (1) As soon as reasonably possible after the end of every month or quarter, whichever he may find more convenient, the Registrar of Deeds shall transmit to the town clerk a return in writing setting forth the name of every person who during the previous month or quarter, as the case may be, transferred any immovable property situated in the area of the local authority, together with a short description of such property, the name and mailing address if

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known of the transferee and the amount of the purchase price paid or other consideration given or the value of such property.

(2) The returns made under subsection (1) shall, upon payment of a fee prescribed by the local authority, be made available by the town clerk during office hours for inspection by any owner who desires to inspect them in connection with any objection or appeal which he may contemplate against the valuation of any immovable property owned by him within the area of the local authority.

Serving of notices and documents.

37. (1) Any notices or other documents required to be served on any person under this Act shall be served in any of the following ways —

- (a) on such person personally;
- (b) by delivering such notice or document at his place of business or his place of residence;
- (c) by posting a prepaid letter containing such notice or document and addressed to the person on whom such notice or document is to be served, to his last known place of residence or his last known place of business, to his post office box number, his last known postal address notified to the local authority pursuant to sections 12 or 36 of this Act; or,
- (d) if the owner of the immovable property to which the notice or document relates is unknown to the local authority and cannot be ascertained after reasonable enquiry, the notice or document may be addressed to the owner or the occupier or be fixed in a conspicuous place on the immovable property to which it relates and as soon as possible thereafter published once in the Gazette and in at least one newspaper circulating in Swaziland.

Provided that in each case the notice or document shall be deemed to have been served on the owner of the immovable property to which it relates on the date of publication of the notice in the Gazette and newspaper circulating in Swaziland.

(2) Service in terms of subsection (1)(c) shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing such notice or document and the date of receipt shall be —

- (i) for purposes of mail addressed to an address within Swaziland, after five working days have elapsed from the date of posting;
- (ii) for purposes of mail addressed to an address in the Republic of South Africa, after ten working days from the date of posting;
- (iii) for purposes of mail addressed to an address in a country other than Swaziland or the Republic of South Africa, after fifteen working days from the date of posting.

(3) Service shall be proved by affidavit sworn by the Town Clerk of the local authority before a Commissioner of Oaths that the notice or document was properly served in accordance with subsection (1)(a), or by producing an official receipt indicating that the service was effected by registered mail.

(4) The owner of any immovable property shown in the valuation roll shall notify the local authority of his postal address within two weeks of acquiring such property and, thereafter, within two weeks of any change of his postal address.

(5) An owner who fails to comply with subsection (4) shall be guilty of an offence.

Evidence.

38. In legal proceedings for the recovery of a rate imposed by this Act, any book or other document purporting to be —

- (a) a valuation roll or rate book of the local authority;
- (b) a duly authenticated copy of or extract from such roll or book;
- (c) a dated copy of any newspaper containing a relevant notice; or,
- (d) an affidavit of service of the relevant notice;

as well as any entry therein, shall, on its mere production, be *prima facie* evidence of the making, levying, assessing, and serving notice of, and the liability for such rate and the amount due, without any evidence that any notice required by this Act or other requirements of this Act have been given, served or complied with.

Defaulting local authorities.

39. If a local authority fails, or is unable for whatsoever reason, to carry out any duty imposed upon it by or under this Act, the Minister may, after due notice to such local authority, carry out the duty in question at the expense of the local authority or cause it to be so carried out.

Remuneration for valuations.

40. The local authority shall pay the valuer for a valuation under this Act such remuneration, and such reimbursement for any disbursements, costs, fees, and expenses incurred by him in connection with such valuation:

Provided that the valuer is selected by open tender from members of the panel referred to in section 10.

Regulations and forms.

41. (1) The Minister may make regulations concerning —
- (a) anything which is prescribed under this Act;
 - (b) the manner in which any notices or orders shall be published;
 - (c) generally the procedure to be adopted in respect of objections or appeals, including the procedure to be adopted at sittings of the valuation court; and,
 - (d) generally, all matters which the Minister considers it necessary or expedient to prescribe for the better carrying out of this Act.

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Penalties for offences.

42. (1) A person who is guilty of an offence under section 9(4), 14(4), 15(3), or 18(6) shall be liable, on conviction, to a fine not exceeding two thousand emalangeni, or in default of payment thereof, imprisonment for a period not exceeding eighteen months.

(2) A person who is guilty of an offence under section 37(4) shall be liable, upon conviction, to a fine not exceeding two hundred emalangeni.

Termination of quit-rent.

43. If, under this Act, a rate is levied on immovable property, any quit-rent otherwise lawfully payable in respect of such property shall cease to be payable.

Repeal.

44. The Rating Act No. 24 of 1967 is hereby repealed.

SCHEDULE

PART I

Section 3

Area:

- The area of the Manzini City Council;
- The area of the Mbabane City Council;
- The area of the Nhlanguano Town Council;
- The area of the Pigg's Peak Town Council;
- The area of the Siteki Town Council;
- The area of the Matsapha Town Board.

PART II

Section 11(1)

Declaration of Valuer

I, (full name), do solemnly and sincerely declare that I will to the best of my skill and knowledge, and without favour and prejudice, truly and impartially appraise -and value all such immovable property as I am required to value for the purposes of assessment, and that I will conscientiously value the same at and for the full and fair market value thereof according to the intent and requirement of the law. I make this solemn declaration conscientiously intending to fulfil the same.

.....
(Valuer)

Declared at (place) this

Day of 19

Before me
(Commissioner of Oaths)

PART III

Section 11(2)

Certificate of Valuer

In accordance with section 11(2) of the Rating Act, I hereby certify that the figures entered in the draft valuation roll above have been truly and impartially appraised, valued and checked by me for all immovable property within the area of (specify) in accordance with such Act.

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And that for the purpose of the draft valuation roll, the date taken as the “time of valuation” in accordance with section 2 of such Act was the day of 19.....

.....

(Valuer)

PART IV

Section 20(1)

Certificate of Valuation Court

In accordance with section 20(1) of the Rating Act, we certify that the valuation court set up to consider objections, if any, to the draft valuation roll/supplementary valuation roll No. for has duly set and examined all objections, notifying their decisions to the interested parties concerned, and instructing that the necessary alterations and amendments should be made to the draft valuation roll/supplementary valuation roll.* Now, having satisfied ourselves that these alterations have been carried out, we certify that the draft valuation roll/supplementary valuation roll* shall become (part of) the valuation roll* for and shall come into force as provided in such Act.

Dated this day of 19

.....

(President of valuation court)

.....

(Member of valuation court)

.....

(Member of valuation court)

*Delete whichever is not applicable.