**DRAFT ANNEXURE “A”**

**LEGAL REQUIREMENTS**

The annexure does not cover the complete contents of the Property Rates Act, but focus on those requirements that are immediately relevant to a municipality’s rates policy. The provisions dealing with most of the valuation processes and with transitional arrangements are not covered in this annexure.

**SECTION 2: POWER TO LEVY RATES**

(1) A metropolitan or local municipality may levy a rate on property in its municipal area.

(2) A municipality must exercise its power to levy a rate on property subject to

(a) Section 229 and any other applicable provisions of the Constitution,

(b) the provisions of the present Act, and

(c) the rates policy it must adopt in terms of this Act.

**SECTION 3: ADOPTION AND CONTENTS OF RATES POLICY**

(1) The council of a municipality must adopt a policy consistent with the present Act on the levying of rates on rateable property in the municipality.

(2) Such a rates policy will take effect on the effective date of the first valuation roll prepared by the municipality in terms of the present Act, and such policy must accompany the municipality’s budget for the financial year concerned when that budget is tabled in the council in terms of the requirements of the Municipal Finance Management Act.

(3) A rates policy must:

(a) treat persons liable for rates equitably;

(b) determine the criteria to be applied by the municipality if it:

i. levies different rates for different categories of property;

ii. exempts a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate on their properties;

iii. grants to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rate payable in respect of their properties;

1. or increases rates;

(c) determine or provide criteria for the determination of

1. categories of properties for the purposes of levying different rates, and
2. categories of owners of properties, or categories of properties, for the purpose of granting exemptions, rebates and reductions;

(d) determine how the municipality’s powers in terms of Section 9 must be exercised in relation to properties used for multiple purposes;

1. identify and quantify in terms of cost to the municipality and any benefit to the local community,
	1. exemptions, rebates and reductions;
	2. exclusions; and
	3. rates on properties that must be phased in, in terms of Section 21;

(f) take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them;

(g) take into account the effect of rates on organisations conducting specified public benefit activities and registered in terms of the Income Tax Act for tax reductions because of those activities, in the case of property owned and used by such organisations for those activities;

(h) take into account the effect of rates on public service infrastructure;

(i) allow the municipality to promote local, social and economic development; and

(j) identify, on a basis as may be prescribed, all rateable properties in a municipality that are not rated in terms of Section 7.

(4) When considering the criteria to be applied in respect of any exemptions, rebates and reductions on properties used for agricultural purposes, a municipality must take into account:

(a) the extent of services provided by the municipality in respect of such properties;

(b) the contribution of agriculture to the local economy;

(c) the extent of which agriculture assists in meeting the service delivery and

development obligations of the municipality; and

(d) the contribution of agriculture to the social and economic welfare of farm workers.

(5) Any exemptions, rebates or reductions granted and provided for in the rates policy adopted by a municipality must comply and be implemented in accordance with a national framework that may be prescribed after consultation with organised local government.

(6) No municipality may grant relief in respect of the payment of rates to:

(a) a category of owners of properties, or to the owners of a category of properties, other than by way of an exemption, rebate or reduction as provided for in its rates policy and granted in terms of Section 15 of the present Act; or

(b) the owners of properties on an individual basis.

**SECTION 4: COMMUNITY PARTICIPATION**

(1) Before a municipality adopts its rates policy, the municipality must

(a) follow the process of community participation envisaged in Chapter 4 of the Municipal Systems Act; and

(b) comply with the following requirements, as set out below.

(2) The municipal manager of the municipality must:

(a) conspicuously display the draft rates policy for a period of at least 30 days

1. at the municipality’s head and satellite offices and libraries, and

ii. if the municipality has an official website or a website available to it, on that website as well; and

(b) advertise in the media a notice

1. stating that
	1. a draft rates policy has been prepared for submission to the council, and
	2. that such policy is available at the various municipal offices for public inspection, and (where applicable) is also available on the relevant website; and

ii. inviting the local community to submit comments and representations to the municipality within a period specified in the notice, but which period shall not be less than 30 days.

(3) The council must take all comments and representations made to it into account when it considers the draft rates policy.

**SECTION 5: ANNUAL REVIEW OF RATES POLICY**

(1) The council must annually review, and – if needed – amend its rates policy. Any amendments to the rates policy must accompany the municipality’s annual budget when it is tabled in the council in terms of the Municipal Finance Management Act.

(2) When the council decides to amend the rates policy, community participation must be allowed for as part of the municipality’s annual budget process.

**SECTION 6: BY-LAWS TO GIVE EFFECT TO RATES POLICY**

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

(2) such by-laws may differentiate between

(a) different categories of properties, and

(b) different categories of owners of properties liable for the payment of rates.

**SECTION 7: RATES TO BE LEVIED ON ALL RATEABLE PROPERTY**

(1) When levying rates a municipality must levy such rates on all rateable property in its area,

(2) is nevertheless

(a) not obliged to levy rates on:

1. properties of which the municipality itself is the owner;

ii. public service infrastructure owned by a municipal entity;

1. rights registered against immovable property in the name of a person;
2. properties in respect of which it is impossible or unreasonably difficult to establish market value because of legally insecure tenure attributable to past racially discriminatory laws or practices.

(b) The requirement to levy rates on all rateable properties does not prevent a municipality from granting exemptions from rebates on or reductions in rates levied.

**SECTION 8: DIFFERENTIAL RATES**

(1) A municipality may in terms of the criteria set out in its rates policy levy different rates for different categories of rateable property, and these categories may be determined according to the:

(a) use of the property;

(b) permitted use of the property; or

(2) Categories of rateable property that may be determined include the following:

(a) residential properties

 (b) industrial properties

(c) business and commercial properties

(d) farm properties used for:

i. agricultural purposes;

ii. other business and commercial purposes

iii. residential purposes

1. purposes other than those specified above
2. farm properties not used for any purpose smallholdings used for:

i. agricultural purposes

ii. residential purposes

 iii. industrial purposes business and commercial purposes

iv. purposes other than those specified above

(g) state owned properties

 (h) municipal properties

(i) public service infrastructure

(j) privately owned towns serviced by the owner

(k) formal and informal settlements

(l) communal land

(m) state trust land

(n) properties acquired through the provision of Land Assistance Act 1993 or the Restitution of Land Rights Act 1994 or which is subject to the Communal Property Associations Act 1996

(o) protected areas

 (p) properties on which national monuments are proclaimed

(q) properties owned by public benefit organisations and used for any specific public benefit activities

(r) properties used for multiple purposes.

**SECTION 9: PROPERTIES USED FOR MULTIPLE PURPOSES**

(1) A property used for multiple purposes must, for rates purposes, be assigned to a category determined by the municipality for properties used for:

(a) a purpose corresponding with the permitted use of the property, if the permitted use of the property is regulated;

(b) a purpose corresponding with the dominant use of the property; or multiple purposes, as specified in Section 8 above.

(2) A rate levied on a property assigned to a category of properties used for multiple purposes must be determined by:

(a) apportioning the market value of the property, in a manner as may be prescribed to the different purposes for which the property is used; and

(b) applying the rates applicable to the categories determined by the municipality for properties used for those purposes to the different market value apportionments.

**SECTION 10: LEVYING OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES**

(1) A rate on a property which is subject to a sectional title scheme must be levied on the individual sectional title units in the scheme, and not on the property on a whole.

**SECTION 11: AMOUNT DUE FOR RATES**

(1) A rate levied by a municipality on property must be stated as an amount in the rand:

(a) on the market value on the property;

(b) in the case of public service infrastructure, on the market value of the public service infrastructure less % of that value determined in tariff book;

(c) in the case of property to which Section 17(1)(h) applies, on the market value of the property less the amount stated in that section (note the section concerned deals with the requirement that the first R15 000 of the market value of certain properties is not rate able) for residential properties.

**SECTION 12: PERIODS FOR WHICH RATES MAY BE LEVIED**

(1) When levying rates, a municipality must levy the rate for a financial year. A rate lapses at the end of the financial year for which it was levied.

(2) The levying of rates forms part of the municipality’s annual budget process, and the municipality must therefore annually, at the time of its budget process, review the amount in the rand of its current rates in line with the annual budget for the next financial year.

**SECTION 13: COMMENCEMENT OF RATES**

(1) A rate becomes payable

(a) as from the start of the particular financial year, or

(b) if the municipality’s annual budget is not approved by the start of the financial year, as from such later date when the municipality’s annual budget, including the resolution levying the rates, is approved by the provincial executive in terms of section 26 of the Municipal Finance Management Act.

**SECTION 14: PROMULGATION OF RESOLUTIONS LEVYING RATES**

(1) A rate is levied by a municipality by a resolution passed by the council with a supporting vote of a simple majority of its members.

(2) The resolution levying the rates must be promulgated by publishing the resolution in the provincial gazette.

(3) Whenever a municipality passes a resolution to levy rates, the municipal manager must, without delay,

(a) conspicuously display the resolution for a period of at least 30 days

i. at the municipality’s head and satellite offices and libraries, and

ii. if the municipality has an official website or a website is available to it, on that website as well; and

(b) advertise in the media a notice stating that

i. the resolution levying the property rates has been passed by the council, and

ii. that the resolution is available at the municipality’s head and satellite offices as so forth.

**SECTION 15: EXEMPTIONS, REDUCTIONS AND REBATES**

(1) A municipality may in terms of the criteria which it has set out in its rates policy:

(a) exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of the rate levied on their property; or

(b) grant to a specific category of owners, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.

(2) When granting exemptions, reductions and rebates in respect of owners or categories of properties, a municipality may determine such categories in accordance with Section 8 of the present Act, and when granting exemptions, reductions or rebates in respect of categories of owners of properties, such categories may include:

(a) indigent owners;

(b) owners dependent on pensions or social grants for their livelihood;

(c) owners temporarily without income.

(d) owners of property situated within an area affected by a disaster or any other serious adverse social or economic conditions.

(e) owners of residential properties with a market value lower than an amount determined by the municipality; and

(f) owners of agricultural properties who are bona fide farmers.

(3) The municipal manager must annually table in the council:

(a) a list of all exemptions, reductions and rebates granted by the municipality during the previous financial year; and

(b) a statement reflecting the income which the municipality has forgone during the previous financial year by way of

i. such exemption, reductions and rebates,

ii. exclusions referred to in the Act, and

iii. the phasing in discount granted in terms of Section 21.

(4) All exemptions, reductions and rebates projected for a financial year must be reflected in the municipality’s annual budget for that year as

(a) income on the revenue side and

* 1. expenditure on the expenditure side.

**SECTION 16: CONSTITUTIONALLY IMPERMISSIBLE RATES**

(1) In terms of the Constitution a municipality may not exercise its power to levy rates on property in a manner that materially and unreasonably prejudices

(a) national economic policies,

(b) economic activities across its boundaries, or

(c) the national mobility of goods, services, capital and labour.

(2) 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 referred to above, the Minister of Provincial and Local Government may, by notice in the gazette, give notice to the relevant municipality that the rate must be limited to an amount in the rand specified in the notice.

**SECTION 17: OTHER IMPERMISSIBLE RATES**

(1) A municipality may not levy a rate on:

(a) the first 30% of the market value of public service infrastructure;

(b) any part of the seashore;

(c) any part of the territorial waters of the Republic;

(d) any islands of which the state is the owner;

(e) those parts of a special nature reserve, national park or nature reserve or national botanical garden which are not developed or used for commercial, business, agricultural or residential purposes; mineral rights;

(f) property belonging to a land reform beneficiary or his or her heirs, provided that this exclusion lapses 10 years from the date on which such beneficiary’s title was registered in the office of the registrar of deeds;

(g) the first R15 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll to a category determined by the municipality for residential purposes or for properties used for multiple purposes, provided one or more components of the property are used for residential purposes;

1. a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office bearer of that community and who officiates at services at that place of workshop.

(The remainder of this Section deals with situations where the various exemptions lapse).

**SECTION 18: EXEMPTION OF MUNICIPALITIES FROM PROVISIONS OF SECTION 17**

(1) A municipality may apply in writing to the Minister for Provincial and Local Government to be exempted from applying the exemptions granted in respect of the first 30% of the market value of public infrastructure, the exemptions on nature reserves, national parks and national botanical gardens, the exemption on property belonging to land beneficiaries, and the exemption applying to the first R15 000 of the market value of residential and mixed use property, if the municipality can demonstrate that such exclusions are compromising or impeding its ability or right to exercise its powers or perform its functions within the meaning of the Constitution.

**SECTION 19: IMPERMISSIBLE DIFFERENTIATION**

(1) A municipality may not levy:

(a) different rates on residential properties (except where transitional arrangements apply or where some of the properties are newly rate able);

(b) a rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties;

(c) rates which unreasonably discriminate between categories of non-residential properties; and

(d) additional rates, except as provided for in Section 22.

**SECTION 20: LIMITS ON ANNUAL INCREASES OF RATES**

(1) The Minister of Provincial Local Government may, with the concurrence of the Minister of Finance and by notice in the gazette, set an upper limit on the percentage by which rates on properties or a rate on a specific category of properties may be increased.

(2) Different limits may be set for

(a) different kinds of municipalities or

(b) different categories of properties.

(3) The Minister may, on written application by a municipality, and on good cause shown, exempt such municipality from a limit set in terms of the foregoing.

**SECTION 21: COMPULSORY PHASING IN OF CERTAIN RATES**

(1) (a) A rate levied on newly rateable property must be phased in over a period of three

financial years.

(b) Similarly, a rate levied on property owned by a land reform beneficiary must, after the exclusion period has lapsed, be phased in over a period of three financial years.

(c) A rate levied on a newly rateable property owned and used by organizations conducting specified public benefit activities must be phased in over a period of four financial years.

(2) The phasing in discount on a property must:

(a) in the first year, be at least 75% of the rate for that year otherwise applicable to that property;

(b) in the second year, be at least 50% of the rate for that year otherwise applicable to that property, and;

(c) in the third year, be at least 25% of the rate for that year otherwise applicable to that property.

(3) No rate may be levied during the first year on newly rateable property owned and used by organisations conducting specified public benefit activities. Thereafter the phasing in discount shall apply as for other newly rateable property

(a) except that the 75% discount shall apply to the second year,

(b) the 50% to the third year, and

(c) the 25% to the fourth year.

(4) A rate levied on newly rateable property may not be higher than the rate levied on similar property or categories of property in the municipality.

**SECTION 22: SPECIAL RATING AREAS**

(1) A municipality may by a resolution of its council

(a) determine an area within that municipality as a special rating area,

(b) levy an additional rate on property in that area for the purpose of raising funds for improving or upgrading that area, and

(c) differentiate between categories of properties when levying such additional rate.

(2) For determining such a special rating area, the municipality must

(a) undertake a prescribed process of consultation with the local community, and

(b) obtain the consent of the majority of the members of the local community in the proposed special rating area who will be liable for paying the additional rate.

(3) The levying of an additional rate may not be used to reinforce existing inequities in the development of the municipality, and any determination of a special rating area must be consistent with the objectives of the municipality’s IDP.

**SECTION 23: REGISTER OF PROPERTIES**

(1) The municipality must draw up and maintain a register in respect of all properties situated within that municipality, dividing such register into a part A and a part B.

(2) Part A of the register consists of the current valuation roll of the municipality, including any supplementary valuation rolls prepared from time to time.

(3) Part B of the register specifies which properties on the valuation roll or any supplementary valuation rolls are subject to:

(a) an exemption from rates in terms of Section 15 of the present Act;

(b) a rebate on or a reduction in the rate in terms of Section 15;

(c) a phasing in of the rate in terms of Section 21;and

(d) an exclusion referred to in Section 17.

(4) The register must be open for inspection by the public during office hours, and if the municipality has an official website or a website available to it, the register must also be displayed on that website.

(5) The municipality must at regular intervals, but at least annually, update part B of the register.

**SECTION 24: PROPERTY RATES PAYABLE BY OWNERS**

(1) A rate levied by a municipality on property must be paid by the owner of the property subject to Chapter 9 of the Municipal Systems Act

(2) (a) Joint owners of a property are jointly and severally liable for the amount due for rates on that property.

(b) In the case of agricultural property owned by more than one owner in undivided shares, the municipality must consider whether in the particular circumstances it would be more appropriate for the municipality to

i. hold any one of the joint owners liable for all rates levied in respect of the agricultural property, or

ii. to hold any joint owner only liable for that portion of the rates levied on the property that represent that joint owner’s undivided share in the agricultural property.

**SECTION 25: PAYMENT OF RATES ON PROPERTY IN SECTIONAL TITLE SCHEMES**

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

(2) The municipality may not recover the rate on such sectional title unit, or on a right contaplated in section 25 or 27 of the Sectional Titles Act registered against the sectioanl 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 scheme, or holder of such right,

(3) any part of such rate, from the body corporate controlling the sectional title scheme, except when the body corporate itself is the owner of any specific sectional title unit.

**SECTION 26: METHOD AND TIME OF PAYMENT**

(1) A municipality must recover a rate

(a) on a monthly basis, or less often as may be prescribed in terms of the Municipal Finance Management Act, or

(b) annually, as may be agreed to with the owner of the property.

(2) (a) If the rate is payable in a single annual amount, it must be paid on or before a date

 determined by the municipality.

(b) If the rate is payable in installments, it must be paid on or before a date in each

 period determined by the municipality.

NB: The municipality shall levy the properties with a bill at each end of the month and it should be payable monthly within 15 days of preceeding month.

**SECTION 27: ACCOUNTS TO BE FURNISHED**

(1) A municipality must furnish each person liable for the payment of a rate with a written account specifying:

(a) the amount due for rates payable;

(b) the date on or before which the amount is payable;

(c) how the amount was calculated;

(d) the market value of the property;

(e) if the property is subject to any compulsory phasing in discount in terms of Section 21, the amount of the discount, and

(f) if the property is subject to any additional rate in terms of Section 22, the amount due for additional rates.

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

(2) The person liable for payment of the rates remains liable for such payment whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, that person must make the necessary enquiries from the municipality.

**SECTION 28: RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS**

(1) If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined for payment by the municipality, the municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after it has served a written notice on such tenant or occupier.

(2) The amount that the municipality may recover from the tenant or occupier is limited to the amount of the rent or other money due or payable, but not yet paid, by such tenant or occupier to the owner of the property.

**SECTION 29: RECOVERY OF RATES FROM AGENTS**

(1) A municipality may recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality, but only after the municipality has served a written notice on the agent in this regard.

(2) The amount that the municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.

**SECTION 30: GENERAL VALUATION AND PREPARATION OF VALUATION ROLLS**

(1) A municipality intending to levy a rate on property must cause

(a) a general valuation to be made of all properties in the municipality, and

(b) must prepare a valuation roll of all properties in terms of such valuation.

(2) All rateable properties in a municipal area must be valued during such general valuation, including all properties fully or partially excluded from rates in terms of Section 17 of the present Act. However,

(a) if the municipality does not intend to levy rates on its own property, on public service infrastructure owned by a municipal entity, on rights in properties, and on properties in respect of which it is impossible or unreasonably difficult to establish a market value, the municipality is not obliged to value such properties as part of the valuation process.

(b) A municipality may also apply to the Minister for exemption from the obligation to value properties excluded from rates in terms of Section 17 if the municipality can demonstrate that the valuation of such properties is too onerous for it, given its financial and administrative capacity.

(3) Properties which have not been valued, because of any of the foregoing considerations, must nevertheless be included in the valuation roll.

**SECTION 31: DATE OF VALUATION**

(1) For the purposes of a general valuation a municipality must determine a date that may be not more than 12 months before the start of the financial year in which the valuation roll is to be first implemented.

(2) The general valuation must reflect the market values of properties in accordance with

(a) market conditions which apply as at the date of the valuation, and

(b) in accordance with any other applicable provisions of the present Act.

**SECTION 32: COMMENCEMENT AND PERIOD OF VALIDITY OF VALUATION ROLLS**

(1) A valuation roll

(a) takes effect from the start of the financial year following completion of the public inspection period required by the present Act, and

(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 four financial years.

(2) provides for the extension of the period of validity of the valuation roll by the MEC for Local Government, but only up to a period of five financial years, and only in specified circumstances.

**SECTION 46: GENERAL BASIS OF VALUATION**

(1) The market value of a property is the amount the property would have realized if sold on the date of valuation in the open market by a willing seller to a willing buyer.

**SECTION 47: VALUATION OF PROPERTY IN SECTIONAL TITLE SCHEMES**

(1) When valuing a property which is subject to a sectional title scheme, the valuer must determine the market value of each sectional title unit in the scheme.

**SECTION 77: GENERAL**

(1) A municipality must regularly, but where practically possible atleast once a year, update its valuation roll by causing a supplementary valuation roll to be prepared, or the valuation roll itself to be amended.

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