

**BA-PHALABORWA LOCAL MUNICIPALITY**

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**BA-PHALABORWA**

**PRINCIPLES AND POLICY ON  
PROPERTY RATES**

**2016/17**

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## 1. LEGISLATIVE CONTEXT

- 1.1 This policy is mandated by Section 3 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004), which specifically provides that a municipality must adopt a Rates Policy.
- 1.2 In terms of Section 229 of the Constitution of the Republic of South Africa, 1996 (No.108 of 1996), a municipality may impose rates on property.
- 1.3 In terms of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004) a municipality in accordance with-
- a. Section 2(1), may levy a rate on property in its area; and
  - b. Section 2(3), must exercise its power to levy a rate on property subject to-
    - i. Section 229 and any other applicable provisions of the Constitution;
    - ii. the provisions of the Property Rates Act; and
    - iii. the rates policy.
- 1.4 In terms of Section 4 (1) (c) of the Local Government: Municipal Systems Act, 2000 (No. 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, inter alia, rates on property.
- 1.5 In terms of Section 62(1)(f)(ii) of the Local Government: Municipal Finance Management Act, 2003 (No. 56 of 2003) the municipal manager must ensure that the municipality has and implements a rates policy.

## 2. DEFINITIONS

**“Act”** means the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004).

**Business**" means the activity of buying, selling or trade in goods or services and includes any office or other accommodation on the same ERF, the use of which is incidental to such business, with the exclusion of the business of mining, agriculture, farming, or inter alia, any other business consisting of cultivation of soils, the gathering of crops or the rearing of live-stock or consisting of the propagation and harvesting of fish or other aquatic organisms

**Industrial**" means a branch of trade or manufacturing, production assembling or processing of finished or partially finished products from raw materials or fabricated part, on so large scale that capital and labour are significantly involved.

**“Municipality”** means the municipal council for the municipal area

**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)

**Multiple-use properties’** refers to property where there is a combination of different categories of property on the same registered property and where the market value of each is apportioned on the valuation roll;

**Permitted Use”** means the limited purposes for which the property may be used in terms of

I. A condition of title.

II. A provision of the Phalaborwa’s applicable Town Planning or land use scheme as amended from time to time.

III. Any legislation applicable to any specific property or properties

**Privately developed estates** “means properties divided through sub division or township establishment into developments with full title stands and / or sectional units in accordance with the Town Planning Scheme and where all services inclusive of water, electricity, sewerage and refuse removal and roads development are installed at the full cost of the developer and maintained by the residents of such estate”

All other terms are used within the context of the definitions contained in the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004).

**‘Residential property”** means a property included in a valuation roll in terms of Section 48 (2) (b) of the Act as residential.

**“Resort”** a rural place visited for holidays or recreation

**Sectional Titles Act** The Sectional Titles Act, 1986 (Act No. 95 of 1986)

**Sectional Title Scheme** A scheme defined in Section 1 of the Sectional Titles Act;

**Sectional title unit** A unit defined in Section 1 of the Sectional Titles Act;

**Smallholding** means a property recorded in the Deeds Registry Database as being an Erf and zoned for Agricultural usage in terms of an adopted Town Planning Scheme.

**Small, very small and micro business** means businesses as per the criteria set by the National Small Business Act No. 102 of 1996 schedule;

**Socio-economic development’** is defined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". **Sustainable** development encompasses a balance between three pillars, namely economy, environment and society. The requirements of each must be considered and integrated into all activities to achieve sustainability.

**Special rating area** means a geographic area within which property owners agree to pay for certain services supplementary to those supplied by the municipality. These services are financed by levying an additional rate, which is added to the rate in a rand of the property owners within the precinct;

**Specified public benefit activity** An activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act.

**Squatters/Dwellers**” means the workers previously employed by agricultural owners currently residing on the agricultural property and has not yet been addressed or the particular cases not yet finalized in terms of the Extension of Security of Tenure Act 62 of 1997.

**Vacant Land** means land, irrespective of zoning or category and in respect of which the municipality has not issued an occupancy certificate, being unimproved urban land.

**Protected areas**

means properties that are situated within the boundaries of Kruger National Park excluding Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004, which are not developed or used for commercial

### 3. POLICY PRINCIPLES

- 3.1 Rates are levied in accordance with the Act as an amount in the rand based on the market value of all rateable property contained in the municipality’s valuation roll and supplementary valuation roll.
- 3.2 As allowed for in the Act, the municipality has chosen to differentiate between various categories of property and categories of owners of property. Some categories of property and categories of owners are granted relief from rates. The municipality however does not grant relief in respect of payments for rates to any category of owners or properties, or to owners of properties on an individual basis, other than by way of an exemption, rebate or reduction provided for in this policy.
- 3.3 There would be no phasing in of rates based on the new valuation roll, except as prescribed by legislation.
- 3.4 The rates policy for the municipality is based on the following principles:

- (a) Equity: The municipality will treat all ratepayers with similar properties the same.
- (b) Affordability: The ability of a person to pay rates will be taken into account by the municipality. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions or rebates.
- (c) Sustainability: Rating of property will be implemented in a way that:
  - i. it supports sustainable local government by providing a stable and buoyant revenue source within the discretionary control of the municipality; and
  - ii. supports local social economic development
- (d) Cost efficiency : Rates will be based on the value of all ratable property and the amount required by the municipality to balance the operating budget after taking into account profits generated on services and the amounts required to finance free basic services; exemptions, rebates, reductions and phasing-in of rates as approved by the municipality from time to time.

#### **4. SCOPE OF THE POLICY**

- 4.1 This policy document guides the annual setting (or revision) of property rates. It does not make specific property rates proposals. Details pertaining to the applications of the various property rates are published in the Provincial Gazette and the municipality's schedule of tariffs, which must be read in conjunction with this policy.

#### **5. APPLICATION OF THE POLICY**

- 5.1 In imposing the rate in the rand for each annual operating budget component, the municipality shall grant exemptions, rebates and reductions to the categories of properties and categories of owners as allowed for in this policy document.

#### **6. CLASSIFICATION OF SERVICES AND EXPENDITURE**

- 6.1 The municipal manager or his/her nominee must, subject to the guidelines provided by the National Treasury and Executive Committee of the municipality, make provision for the following classification of services:

- (a) **Trading services:**

- i. Water
  - ii. Electricity
- (b) **Economic services:**
- i. Refuse removal.
  - ii. Sanitation.
- (c) **Community services:**
- i. Air pollution
  - ii. Fire fighting services
  - iii. Local tourism
  - iv. Municipal planning
  - v. Municipal public works, only in respect of the needs of municipalities in the discharge of their responsibilities and to administer functions specially assigned to them under the Constitution or any other law.
  - vi. Storm water management system in built-up areas.
  - vii. Trading regulations
  - viii. Fixed billboards and the display of advertisements in public places
  - ix. Cemeteries
  - x. Control of public nuisances
  - xi. Control of undertakings that sell liquor to the public
  - xii. Township development
  - xiii. Facilities for accommodation, care and burial of animals
  - xiv. Fencing and fences
  - xv. Licensing of dogs
  - xvi. Licensing and control of undertakings that sell food to the public
  - xvii. Local amenities
  - xviii. Local sport facilities
  - xix. Municipal parks and recreation
  - xx. Municipal roads
  - xxi. Noise pollution
  - xxii. Pounds
  - xxiii. Public places
  - xxiv. Street trading/street lighting
  - xxv. Traffic and parking
  - xxvi. Building control
  - xxvii. Licensing of motor vehicles and transport permits
  - xxviii. Nature reserves

xxix. Forestry

- (d) **Subsidized services:**
- i. Health and ambulance.
  - ii. Libraries and museums.
  - iii. Proclaimed roads.

6.2 Trading and economic services must be ring fenced and financed from service charges while community and subsidised services will be financed from profits on trading and economic services, regulatory fees, rates and rates related income.

6.3 Expenditure will be classified in the following categories:

- (a) Salaries, wages and allowances
- (b) Bulk purchases
- (c) General expenditure
- (d) Repairs and maintenance
- (e) Capital charges (interest and redemption)/depreciation
- (f) Contribution to fixed assets
- (g) Contribution to funds-
  - i. bad debts.
  - ii. working capital; and
  - iii. statutory funds.
- (h) Contribution to reserves.
- (i) Total expenditure.
- (l) Revenue.
- (m) Surplus/Deficit

6.4 Cost centers will be created to which the costs associated with providing the service can be allocated-

- (a) by Department;
- (b) by Section/service; and
- (c) by Division/service.

6.5 The subjective classification of expenditure each with a unique vote will be applied to all cost centers.

## 7. CATEGORIES OF PROPERTY

7.1 Criteria for determining categories of properties for the purpose of levying different rates and for the purpose of granting exemptions will be according to the use of the property only.



## 7.2 Categories of property within the municipal jurisdiction include:

1. Residential Properties;
  - (a) Residential property consent use – clause 20, clause 21
  - (b) Residential property consent use – clause 21, clause 22
2. Business and Commercial Properties;
3. Industrial Properties;
4. Public Service Infrastructure;
5. Public Benefit Organisations;
6. Agricultural properties used for agricultural
7. Agricultural properties used for other business & commercial purposes (i.e. Private nature; Game Reserve)
8. Agricultural properties used for residential purposes
9. Agricultural properties not used for any purpose
10. Properties used for eco-tourism/hunting and trading in game
11. Municipal Properties;
12. Privately Developed Estates;
13. Properties for Religious Use;
14. Vacant Land.
15. Rural communal land
16. Education facilities
17. State-owned Properties
18. Trust Land
19. Protected areas (i.e. National Parks)
20. Properties used for multiple purposes, subject to section 9 of the Act (N/A)
21. Smallholdings used for
  - I. Agricultural purposes
  - II. Residential purposes
  - III. Industrial purposes
  - IV. Business and commercial purposes
  - V. Purposes other than those specified in subparagraph (i) to (iv)

NB: In line with Amendments of MPRA published July 2014

“Agricultural property” means property that is used primarily for agricultural purposes but, without derogating from section 9, excludes any portion therefore that is used commercially for the hospitality of guests, and excludes the use of the property for the purpose of eco-tourism or for the trading in or hunting game or nature reserve or game reserve

## 8. CATEGORIES OF OWNERS

8.1 Criteria for determining categories of owners of properties, for the purpose of granting exemptions, rebates and reductions will be according to the :

- (a) indigent status of the owner of a property;
- (b) sources of income of the owner of a property;
- (c) owners of property situated within an area affected by-
  - i. a disaster within the meaning of the Disaster Management Act,

- 2002 (Act No. 57 of 2002); or
- ii. any other serious adverse social or economic conditions;
- (d) owners of residential properties with a market value below a determined threshold; or
  - (e) owners of agricultural / forestry properties who are bona fide farmers. (**See definition**)

## 9. PROPERTY CATEGORY USES

9.1 Rates on properties category will be levied on properties uses:

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

## 10. DIFFERENTIAL RATING

10.1 Criteria for differential rating on different categories of properties will be according to :

- (a) The nature of the property including its sensitivity to rating e.g. agricultural properties used for agricultural purposes.
- (b) The promotion of social and economic development of the municipality.

10.2 Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category and/or

10.3 by way of reductions and rebates.

## 11. EXEMPTIONS

11.1 The following categories of property are exempted from rates:

- (a) Municipal properties: Municipal properties are exempted from paying rates as it will increase the rates burden or service charges to property owners or consumers.
- (b) Cemeteries and crematoriums: Registered in the names of private persons and operated not for gain.
- (c) Public Service Infrastructure: The ratio referred to in Gazette no. 32061

and 32062 issued on 27<sup>th</sup> of March 2009 makes provision that PSI will only pay 25% of the tariff charged to Residential ratepayers.

- (d) Public Service Infrastructure may apply for the exemption of property rates subject to producing a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the Ninth Schedule of the Income Tax Act, 1962 (No 58 of 1962): **The ratio referred to in Gazette no. 32061 and 32062 issued on 27<sup>th</sup> of March 2009 as amended by regulation 9242 on 12 March 2010 makes provision that Public Service Infrastructure will only pay 25% of the tariff charged to residential ratepayers**
- i. Health care institutions: Properties used exclusively as a hospital, clinic and mental hospital, including workshops used by the inmates, laundry or cafeteria facilities, provided that any profits from the use of the property are used entirely for the benefit of the institution and/or to charitable purposes within the municipality.
  - ii. Welfare institutions: Properties used exclusively as an orphanage, non-profit retirement villages, old age home or benevolent institution, including workshops used by the inmates, laundry or cafeteria facilities, provided that any profits from the use of the property are used entirely for the benefit of the institution and/or to charitable purposes within the municipality.
  - iii. Charitable institutions: Property belonging to not-for-gain institutions or organisations that perform charitable work.
  - vi. Sporting bodies: Property used by an organisation whose sole purpose is to use the property for sporting purposes on a non-professional basis.
  - vii. Cultural institutions: Properties declared in terms of the Cultural Institutions Act, Act 29 of 1969 or the Cultural Institutions Act, Act 66 of 1989.
  - viii. Museums, libraries, art galleries and botanical gardens: Registered in the name of private persons, open to the public and not operated for gain.
  - ix. Youth development organisations: Property owned and/or used by organisations for the provision of youth leadership or development programmes.
  - x. Animal welfare: Property owned or used by institutions

/organisations whose exclusive aim is to protect birds, reptiles and animals on a not-for-gain basis.

11.2 Exemptions will be subject to the following conditions:

- (a) all applications must include a constitution of the organization and be addressed annually in writing to the municipality;
- (b) a SARS tax exemption certificate must be attached to all applications;
- (c) the municipal manager or his/her nominee must approve all applications;
- (d) applications must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought
- (e) the municipality retains the right to refuse exemptions if the details supplied in the application form were incomplete, incorrect or false.

## 12. REDUCTIONS

12.1 A reduction in the municipal valuation as contemplated in section 15(1)(b) of the Act will be granted where the value of a property is affected by:-

- (a) a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
- (b) any other serious adverse social or economic conditions

12.2 The reduction will be in relation to the certificate issued for this purpose by the municipal valuer.

12.3 All categories of owners can apply for a reduction in the rates payable as described above

## 13. REBATES

13.1. Categories of property:

- (a) Business, commercial and industrial properties:
  - i. The municipality grant a rebate of 20% to rateable enterprises that promote local, social and economic development in its area of jurisdiction, based on its Local, Social and Economic Development Policy. The following criteria will apply:
    - a. permanently employ more than twenty (20) workers with South African citizenship for at least a continuous period of

twelve (12) months, and the salaries / wages are strictly in terms of the minimum standards set by the Department of Labour;

- b. social upliftment of the local community
  - c. creation of infrastructure for the benefit of the community.
- ii. Rebates will be granted on application subject to:
- a. a business plan issued by the directors by the 30<sup>th</sup> of September each year, of the company indicating how the local, social and economic development objectives of the municipality are going to be met;
  - b. a continuation plan issued by the directors and certified by auditors of the company stating that the objectives have been met in the first year after establishment and how the company plan to continue to meet the objectives;
  - c. an assessment by the municipal manager or his/her nominee indicating that the company qualifies; and
  - d. a municipal council resolution.
- (b) Residential properties: The municipality grants a 40 % rebate, which applies to improved residential property that is:
- i. used predominantly for residential purposes, with not more than two dwelling units per property.
  - ii. registered in terms of the Sectional Title Act.
  - iii. owned by a share-block company.
  - iv. privately developed estates used for residential purposes.
  - iv. a rateable residence on property used for or related to educational purposes.
- (c) Privately developed estates: The municipality grants an additional rebate of 30%, over and above as stipulated in paragraph 13.1 (c) which applies to privately developed estates qualifying as defined in paragraph 2.3 of this policy. Privately developed estates not maintaining the total services of the estate will receive a 10% rebate
- (d) Bona fide- Agricultural property ratio:
- i. Qualifying requirements are that the owner or the person renting a property from a owner should be taxed by SARS as a farmer and the last tax assessment must be provided as proof, or
  - ii. where the owner or the person renting the agricultural property is

not taxed as farmer, proof is required that income from farming activities exceeds 40% of the total income generated.

- iii. The ratio referred to in Gazette no. 32061 and 32062 issued on 27<sup>th</sup> of March 2009 makes provision that bona- fide farmers will only pay 25% of the tariff charged to residential ratepayers as amended by regulation 9242 on 12 March 2010.
  - iv. Agricultural properties used for other business & commercial purposes will receive a 30% rebate
  - v. Agricultural properties used for residential purposes will receive a 40% rebate
  - vi. Agricultural properties not used for any purpose will receive a 0% rebate
  - vii. Agricultural properties used for eco-tourism/hunting and trading in game will receive a 30% rebate
- c. Agricultural properties will be granted relief interms of Gazette no 32061 subject to:
- i. the submission of an affidavit by 30 September each year from each qualifying farmer and including a certificate from the owner's/farmers auditors or such time as may be required by the municipality.
  - ii. an assessment by the municipal manager or his/her nominee indicating that the application qualifies; and
  - iii. a municipal council resolution.
  - iv. All other Agricultural categories on submission of a application for such rebate.
- d. If the farm property is impacted by the Extension of Security of Tenure Act 62 of 1997 the value of the identified property impacted by the Act will be excluded from the total valuation for rating purposes. The benefits, rights and privileges associated with the identified property must also be valued in order to obtain the true market related valuation.

The municipality must be notified by the owner of such property impacted by the Extension of Security of Tenure Act 62 of 1997 in order to qualify. All relevant deeds and legal documents pertaining to the property and applicant should be attached to the application.

e. Public Benefit Organisations

The ratio referred to in Gazette no. 32061 and 32062 issued on 27<sup>th</sup> of March 2009 as amended by regulation 9242 on 12 March 2010 makes

provision that Public Benefit Organisations will only pay 25% of the tariff charged to residential ratepayers.

- (iv) It be specifically noted that agricultural owners that had been adversely affected by disaster or loss of income not necessarily as set out in the Disaster Management Act, 2002 (Act No. 57 of 2002) but as agreed to by the Department of Agriculture and Agricultural unions also be exempted by the meaning of **SECTION 15: EXEMPTIONS, REDUCTIONS AND REBATES**

**as set out in ANNEXURE “A” LEGAL REQUIREMENTS paragraph 2 . (c) “owners temporarily without income”(such conditions to qualify be attached to this rates policy as annexure “B”)**

### 13.2 Categories of owners:

#### (a) Retired and Disabled Persons Rate Rebate

- i. Retired and Disabled Persons qualify for an additional rebate of 55%, over and above the residential rebate as set out in paragraph 13.1 (b) according to monthly household income. To qualify for the rebate a property owner must:
  - a. occupy the property as his/her normal residence;
  - b. be at least 60 years of age or in receipt of a disability pension from the Department of Welfare and Population Development;
  - c. be in receipt of a total monthly income from all sources (including income of spouses of owner) not exceeding R 12000;
  - d. not be the owner of more than one property; and
  - e. provided that where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.
- ii. Property owners must apply on a prescribed application form for a rebate as determined by the municipality.
- iii. Applications for rebate or exemptions must be accompanied by-
  - a. a certified copy of the identity document or any other proof of the owners age which is acceptable to the municipality;

- b. sufficient proof of income of the owner and his/her spouse;
  - c. an affidavit from the owner confirming that criteria as set out above.
  - d. if the owner is a disabled person proof of a disability pension payable by the state must be supplied; and
  - e. if the owner has retired at a younger age than 60 for medical reasons (proof thereof must be submitted).
- iv. These applications rebate ,exemptions must reach the municipality before the end of October preceding the start of the new municipal financial year for which relief is sought or such time that the municipality may invite the applications.
  - v. The municipality retains the right to refuse rebates if the details supplied in the application form mentioned above were incomplete, incorrect or false.

### 13.3 Phasing in of rates

- (a) will only apply to the following financial years; 2009/2010, 2010/2011, 2011/2012 and 2012/2013 :
  - i. for the 2009/2010.financial year 25% of the rate payable will be billed.
  - ii. for the 2010/2011.financial year 50% of the rate payable will be billed.
  - iii. for the 2011/2012.financial year 75% of the rate payable will be billed.
  - iv. for the 2012/2013 financial year the full amount due and payable will be billed.
- (b) This rebate will not apply to the increase of rates due to a supplementary valuation that was done in terms of Section 78(1) of the Act.
- (c) This rebate is applicable to the following categories:

Newly rated property, never before rated as from the implementation of the new Act.



14. **COST TO THE MUNICIPALITY DUE TO EXEMPTION, REDUCTIONS, REBATES, EXCLUSIONS, PHASING IN AND THE BENEFIT THEREOF TO THE LOCAL COMMUNITY**

Information within the following format shall be submitted to Council on an annual basis to report on the related cost to Council provided the system is able to produce the report in the required manner :

(a) Costs associated with exemptions, reductions, rebates, exclusions and phasing in of rates-

i. <b>Exemptions :</b>	R
Municipal properties	.....
Residential properties	.....
Cemeteries and crematoriums	.....
Public service infrastructure	.....
Public benefit organizations	.....
ii. <b>Reductions :</b>	
Properties affected by disaster	.....
Properties affected by serious adverse social or economic conditions	.....
iii. <b>Rebates Enterprises that promote local, social and economic development :</b>	.....
State properties	.....
Residential properties	.....
Retired and disabled persons	.....
Phasing in Newly rateable property	.....
Land reform beneficiaries	.....
Rebate to limit the increase of rates	.....
iv. <b>Exclusions :</b>	
Public service infrastructure	.....
Protected areas	.....
Land reform beneficiary	.....
Residential property (mandated R 15 000 exemption)	.....

- Public places of worship .....
- (b) The benefit to the community of granting relief measures will be-
- i. the promotion of local economic development including attracting business investment, for example small business establishment;
  - ii. creation of employment for municipal residents;
  - iii. promotion of service delivery, for example by farmers;
  - iv. poverty alleviation to the indigents;
  - v. social development and moral development, for example, by religious institutions, sports institutions, schools and other non governmental organisations which promote health and other benefit to the community; and
  - vi. Improved local economic growth.

## 15. RATES INCREASES

- (a) The municipality will consider increasing rates annually during the budget process in line with national guidelines issued by National Treasury.
- (b) Rate increases will be used to finance the increase in operating costs of community and subsidised services.
- (c) Relating to community and subsidised services the following annual adjustments will be made:
  - i. All salary and wage increases as agreed at the South African Local Government Bargaining Council and in terms of the Remuneration of Public Office Bearers Act;
  - ii. An inflation adjustment for general expenditure, repairs and maintenance and contributions to statutory funds, and
  - iii. Additional depreciation costs or interest and redemption on loans associated with the assets created during the previous financial year.
- (d) Extraordinary expenditure related to community services not foreseen during the previous budget period and approved by the council during a budget review process will be financed by an increase in property rates annually during the budget process.
- (e) Affordability of rates to ratepayers with special reference to the Property Rates Act No 6 of 2006 chapter 2, paragraph 20.
- (f) All increases in property rates will be communicated to the local community in terms of the municipality's policy on community participation.

## 16. NOTIFICATION OF RATES

- (a) The municipality will give notice of all rates approved at the annual budget meeting at least 30 days prior to the date that the rates become effective. Accounts delivered after the 30 days notice will be based on the new rates.
- (b) A notice stating the purport of the municipality's resolution and the date on which the new rates become operational will be displayed by the municipality at places installed for that purpose.

## 17. PAYMENT OF RATES

17.1 Ratepayers may choose between paying rates annually in advance with one installment on or before the 15<sup>th</sup> of August of each year or in twelve equal installments on or before the fifteenth day of the month following on the month in which it becomes payable.

17.2 Interest on arrear rates, whether payable on or before the 15<sup>th</sup> of August or in equal monthly installments, shall be calculated in accordance with the provisions of the credit control, debt collection and indigent policy of the municipality at % in the tariff book.

17.3 If a property owner who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection and indigent policy of the Municipality.

17.4 Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act.

17.5 Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.

17.6 In addition to paragraph 17.5, where the error occurred because of false information provided by the property owner or as a result of a contravention of the

permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

## **18. REGULAR REVIEW PROCESSES**

18.1 The rates policy will be reviewed on an annual basis to ensure that it complies with the Municipality's strategic objectives and with legislation.

## **19. SHORT TITLE**

19.1 This policy is the Property Rates Policy of the Ba-Phalaborwa Municipality.

## **20. ENFORCEMENT/IMPLEMENTATION**

20.1 This policy has been approved by the Municipality by council resolution and shall be reviewed annually.

## **21. LEGAL REQUIREMENTS**

21.1 The legal requirements of the Act is attached as Annexure A to this policy document.

## **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;
    - v. or increases rates;
  - (c) determine or provide criteria for the determination of
    - i. categories of properties for the purposes of levying different rates, and
    - ii. 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;
  - (e) identify and quantify in terms of cost to the municipality and any benefit to the local community,
    - i. exemptions, rebates and reductions;
    - ii. exclusions; and
    - iii. rates on properties that must be phased in, in terms of Section 21;
  - (f) take into account the effect of rates on the poor and include appropriate measures to alleviate the rates burden on them;
  - (g) take into account the effect of rates on organisations conducting specified public

benefit activities and registered in terms of the Income Tax Act for tax reductions because of those activities, in the case of property owned and used by such organisations for those activities;

- (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
    - i. at the municipality's head and satellite offices and libraries, and
    - ii. if the municipality has an official website or a website available to it, on that

- website as well; and
  - (b) advertise in the media a notice
    - i. stating that
      - (aa) a draft rates policy has been prepared for submission to the council, and
      - (bb) 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:
    - i. properties of which the municipality itself is the owner;

- ii. public service infrastructure owned by a municipal entity;
  - iii. rights registered against immovable property in the name of a person;
  - iv. 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
    - v. purposes other than those specified above
  - (e) 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
  - (b) 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;
- (f) 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.
- (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.
- (2) The municipality may not recover the rate on such sectional title unit, or
- (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.

#### **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.
- (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 at least 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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