

CHAPTER 266

VALUATION FOR RATING ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. Valuation for Rating (Public Land) Rules	21
2. Valuation for Rating Rules	27
3. Rating Regulations	29
4. Mombasa Municipal Council (Rating of Added Areas) Regulations	31

VALUATION FOR RATING (PUBLIC LAND) RULES

ARRANGEMENT OF RULES

Rule

1. Citation.
 2. Interpretation and application of Act.
 3. Public land valuation roll.
 4. Land used for certain public purposes to be excluded from roll.
 5. Land reserved for public purposes to be exempt.
 6. Parcels of valuation.
 7. Certain land not to be treated as restricted in use.
 8. Supplementary roll.
 9. Notification of roll.
 10. Objections to roll.
 11. Certification of uncontested roll.
 12. Valuation committee.
 13. Clerk of committee to call meetings.
 14. Determination of objections.
 15. Certification of roll after objections determined.
 16. Appeals.
 17. Calculation of contribution in lieu of rates.
 18. Transitional.
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[Subsidiary]

Rules under sections 25 and 26

VALUATION FOR RATING (PUBLIC LAND) RULES

[L.N. 240/1967, L.N. 161/1977, L.N. 27/2006.]

1. Citation

These Rules may be cited as the Valuation for Rating (Public Land) Rules.

2. Interpretation and application of Act

(1) In these Rules, except where the context otherwise requires—

“**clerk**” means the clerk of the local authority;

“**public land**” means Government land;

“**relevant authority**” means the Commissioner of Lands, the Managing Director of the Kenya Railways Corporation or the Managing Director of the Kenya Ports Authority, as the case may be, the Managing Director of the Kenya Posts and Telecommunications Corporation and the Managing Director of Kenya Airports Authority;

“**valuation committee**” means a valuation committee appointed under rule 12.

(2) Except in rule 8 and in sections 3, 4 and 18 of the Act (as applied by these Rules), “**public land valuation roll**” includes a supplementary public land valuation roll, and “**draft public land valuation roll**” includes a draft supplementary public land valuation roll.

(3) Subject to these Rules, the provisions of sections 3, 4, 6, 8, 14, 18, 20, 21, 22, 23 and 24 of the Act shall apply in respect of public land as they apply in respect of rateable property and as if references to rateable property, rateable owner, valuation roll, supplementary valuation roll and valuation court in those sections were references respectively to public land, relevant authorities, public land valuation roll, supplementary public land valuation roll and valuation committee, and as if the references therein to sections 9, 11, 16 and 17 of the Act were references respectively to rules 9, 11, 14 and 15.

[L.N. 27/2006, r. 2.]

3. Public land valuation roll

(1) For the purposes of assessing the contribution in lieu of rates payable to a local authority in respect of Government land under the Rating Act (Cap. 267), the valuer shall prepare a draft public land valuation roll, which shall be separate from, but at the same time of valuation as, the valuation roll of rateable property in the area of the local authority.

(2) The draft public land valuation roll shall comprise all public land within the area of the local authority which would, if it were not public land, be rateable property (but not land excluded from the roll under rule 4), and shall distinguish between—

- (a) land of the Government;
- (b) land of the Kenya Railways Corporation;
- (c) land of the Kenya Posts and Telecommunication Corporation;
- (d) the Kenya Ports Authority;
- (e) the Kenya Airways Corporation;
- (f) Kenya Airports Authority.

[L.N. 27/2006, r. 3.]

4. Land used for certain public purposes to be excluded from roll

Public land shall not be included in a draft public land valuation roll, or be liable to any contribution in lieu of rates, if it is being directly and exclusively used for any of the under mentioned purposes—

- (a) museums, art galleries, and ancient monuments (including Fort Jesus at Mombasa);

- (b) botanical gardens and arboreta;
- (c) veterinary quarantine areas and outspans;
- (d) all State Houses and all President's Lodges;
- (e) aerodromes within the meaning of the Civil Aviation Act (Cap. 394) and the Kenya Airports Authority Act (Cap. 395) which are managed and controlled by the Kenya Airports Authority, excluding areas used for passenger reception or the handling or storage of goods, the offices of airline companies or agencies, immigration and customs offices and premises, restaurants, lounges, bars, shops, hangars, workshops, posts and telecommunications installations and stores, police stations, animal holding grounds, freight sheds and dumps;
- (f) railway tracks, including tracks in sidings and marshalling yards and signal boxes, water towers and other such buildings or structures essential to the operation of railway tracks, but excluding areas used for passenger or goods stations, offices, workshops, servicing areas, sheds and depots;
- (g) wharves, piers, jetties, berths and navigational aids in a harbour within the meaning of the Kenya Ports Authority Act (Cap. 391), and the loading or unloading of vessels and the storage of cargoes in transit at or adjacent to those wharves, piers, jetties and berths, and any land below high-water mark in a harbour;
- (h) roads and streets which are used as such by the public for vehicular traffic, whether as of right or not;
- (i) parks and open areas managed and controlled by a local authority for the use of the public,

except to the extent that the land (other than that used for the purposes set out in paragraph (d)), is used for any residential purpose.

[L.N. 161/1977, s. 2, L.N. 27/2006, r. 4.]

5. Land reserved for public purposes to be exempt

(1) Any public land which is Government land which should in the opinion of the Minister be reserved for any of the purposes specified in rule 4 shall, if it is duly reserved for that purpose by letter of reservation given by the Commissioner of Lands in accordance with the Minister's opinion or if it is duly shown as reserved or required for such a purpose on a subdivisional or development plan approved and signed by the Commissioner of lands under any written law, be exempt from payment of contribution in lieu of rates while the land is not being used for any other purpose except that subparagraph (ii) of the proviso to section 25(1) of the Act shall be complied with in respect of Government land.

(2) Land which is exempt from payment of contribution in lieu of rates by virtue of paragraph (1) shall be included in the public land valuation roll, but it shall be shown separately from other land in the roll.

6. Parcels of valuation

(1) Public land shall be valued in such parcels as are appropriate to the nature, boundaries and size of each area involved and no parcel need correspond with or comprise the whole of any existing surveyed plot or existing title, and—

- (a) land of one of the bodies mentioned in rule 3(2) shall not be valued in the same parcel as land of another of those bodies;
- (b) land exempt under rule 5 shall not be valued in the same parcel as any other land;
- (c) land shall not be valued in the same parcel as other land which it does not adjoin; and for this purpose land shall not be taken as adjoining other land if it is separated from it by land which is excluded from the roll by virtue of rule 4 or section 27 of the Act, or which is exempt by virtue of rule 5.

[Subsidiary]

(2) Each such parcel shall be a unit of valuation and shown separately on the public land valuation roll.

(3) This rule shall be deemed to have come into operation on the 1st January, 1966.

7. Certain land not to be treated as restricted in use

In valuing land belonging to one of the bodies mentioned in rule 3(2), the land (whether or not it is exempt from payment of contribution in lieu of rates under rule 5) shall not be taken to be, or to have been at any time since the 1st January, 1966, restricted in use to the purposes of that or any like body or to any other railway, harbour, postal, telecommunication or (after the 1st December, 1967) aviation purpose, notwithstanding anything—

- (a) in section 8 of the Act; or
- (b) appearing on any plan or planning scheme (whether or not such plan or scheme is operative or enforceable in law),

and the land shall be valued without regard to any such restriction and accordingly without regard to the profitability, whether actual, notional or potential, of that body or any like body, but the land shall be valued with regard to the best use to which the land can be put and the suitability of the land for that use in comparison with other land in the vicinity.

8. Supplementary roll

(1) A supplementary public land valuation roll under section 4 of the Act (as applied by these Rules) shall, notwithstanding anything in that section, be prepared once in each of the years following the financial year in which the public land valuation roll has come into force, and shall take into account every change in ownership or other disposition affecting public land of which the local authority has been notified before the end of the preceding financial year.

(2) Upon a supplementary public land valuation roll being certified in accordance with rule 11 or rule 15, it shall become part of the public land valuation roll.

9. Notification of roll

When a draft public land valuation roll has been completed, the valuer shall insert in it the date of its completion and sign it, and shall transmit it to the clerk; and the clerk shall then notify the relevant authorities in writing of the making of the roll, and shall furnish them with a copy of the portion of the roll relating to their respective areas of land, together with such plans as may be necessary to identify their areas.

10. Objections to roll

(1) Any of the relevant authorities or the local authority may object to any value or other matter contained in or omitted from the draft public land valuation roll by giving written notice stating the grounds of objection, to the clerk, within six months of his being notified of the making of the roll, and the clerk shall furnish a copy of any objection which the local authority may raise within the same period to such of the relevant authorities as is concerned.

(2) The valuer may, by agreement in writing with the parties affected, alter the roll before it is submitted to the valuation committee, in which case the objection shall stand withdrawn.

11. Certification of uncontested roll

If no objection has been made to the clerk within the period of six months, or if any objection made has been withdrawn, the clerk shall so inform the Minister and the relevant authorities, and shall certify the draft public land valuation roll accordingly, and the draft public land valuation roll shall thereupon become the public land valuation roll.

12. Valuation committee

(1) If an objection has been made and is not withdrawn, the draft public land valuation roll shall be submitted to a valuation committee consisting of the following members—

Valuation for Rating

[Subsidiary]

- (a) a magistrate having power to hold a subordinate court of the first class or an advocate of not less than five years' standing, appointed by the Minister with the approval of the Chief Justice, who shall be chairman;
- (b) one member and one alternate member appointed by the Minister, both of whom may sit on the committee, but when both of them sit on the committee only one of them may vote; and
- (c) one member and one alternate member appointed by the local authority, both of whom may sit on the committee, but when both of them sit only the substitute member may vote:

Provided that the valuer may not be appointed a member of the valuation committee.

(2) The Minister may, with the approval of the Chief Justice, appoint a duly qualified person to be an alternate chairman, who may attend and preside at any meeting which the substantive chairman is unable to attend.

(3) Where an alternate chairman or other alternate member takes the place of the substantive chairman or other member, it shall not invalidate the previous proceedings of the valuation committee except in regard to any objection which the committee has not fully considered, which shall be reheard.

(4) The local authority shall pay to the Government in respect of any magistrate who is chairman of a valuation committee, or may pay to any advocate who is chairman, the same fees as are prescribed in relation to the president of a Valuation Court, and may pay to other members of a valuation committee fees not exceeding the fees so provided.

13. Clerk of committee to call meetings

The local authority shall appoint a clerk to the valuation committee, who may be the clerk of the local authority, and who shall—

- (a) request the Minister and the local authority to make the appointments provided for by rule 12;
- (b) call meetings of the committee to consider the draft public land valuation roll within twelve months of the notification given under rule 9:

Provided that the chairman of the committee may, for good reason, extend such period, or, if no chairman has been appointed, the Minister may extend the period;

- (c) cause notes to be taken of evidence given before the committee, and keep minutes of its proceedings and a record of the assessment, objection and finding in regard to each objection.

14. Determination of objections

(1) The committee shall consider objections to the draft public land valuation roll, and may confirm the roll or may amend it by reducing or increasing any valuation in it, or by adding any item to it or deleting any item from it.

(2) The local authority and any objector may present evidence, call and examine witnesses and ask questions of any objector, and may be represented by an advocate or accredited representative; and the committee may, if the chairman so decides, take such evidence on oath, and may at any time, either of its own accord or on the application of any party, summon any person whose attendance is required either to give evidence or to produce documents.

(3) The valuer shall attend and answer on oath questions arising from any objection put to him by the objector or by the valuation committee, and may himself present evidence, call and examine witnesses and ask questions of any objectors, and may himself be represented by an advocate.

(4) If the valuer or any objector whose objection is heard and determined by the valuation committee so requests, the chairman of the committee shall provide a written statement of the decision of the committee, giving the committee's reasons for reaching its decision.

[Subsidiary]

15. Certification of roll after objections determined

As soon as practicable after all objections have been heard and determined, and after the draft public land valuation roll has been amended accordingly, the chairman of the valuation committee shall sign and certify the roll, whereupon it shall become the public land valuation roll.

16. Appeals

(1) Within three months from the date upon which the public land valuation roll is signed and certified by the chairman, the local authority or any party who appeared on an objection determined by the valuation committee may appeal to the High Court against any decision of the valuation committee.

(2) No appeal under this rule or case stated under section 20 of the Act (as applied by these Rules) shall operate as a stay of execution of the decision of a valuation committee.

17. Calculation of contribution in lieu of rates

(1) The contribution in lieu of rates payable in respect of public land shall be calculated at the same rate as that levied by the local authority on rateable property in the same rating area (as defined by the Rating Act) (Cap. 267) as that in which the land is situated.

(2) The contribution in lieu of rates shall be payable on such date or dates and in such instalments as may be determined by the Minister, who may fix different dates and instalments for the different bodies mentioned in rule 2.

(3) If during any financial year any land, before the date fixed by the local authority for payment of rates in that year, becomes exempt from payment of contribution in lieu of rates by virtue of rule 4 or rule 5, no contribution shall be payable in respect of that land for that year.

(4) When in pursuance of a decision of a valuation committee under rule 14, or of the High Court under rule 16 or under section 20 of the Act, an amendment has been made to a draft land valuation roll or a public land valuation roll which affects the amount of the contribution in lieu of rates payable in respect of any public land, the amount underpaid or overpaid shall thereupon be paid or repaid, as the case may be.

18. Transitional

(1) Every draft valuation roll, valuation roll, draft supplementary valuation roll and supplementary valuation roll prepared under the Rating (Valuation of Crown and Authority Land) Rules (hereby revoked) and in force immediately before the commencement of these Rules shall continue in force according to its terms after such commencement until it is superseded by a public land valuation roll under these Rules, and shall be subject to these Rules (except rule 3 of these Rules).

(2) A draft valuation roll or draft supplementary valuation roll prepared at any time under the revoked Rules shall not be taken to have been invalidated by reason of the fact that it was not considered by a valuation committee under those Rules within the time prescribed by those Rules.

Rules under section 27

VALUATION FOR RATING RULES

[L.N. 7/1972, L.N. 390/1990, L.N. 178/1997.]

1. These Rules may be cited as the Valuation for Rating Rules.
 2. Any land shall be, deemed to be used for the purposes of public religious worship if the land is used for the primary purpose of holding regular congregational worship thereon.
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Regulations under section 31

RATING REGULATIONS

[L.N. 507/1956, L.N. 316/1958, L.N. 48/1983, L.N. 151/1996.]

PART I – PRELIMINARY

1. These Regulations may be cited as the Rating Regulations.

PART II – FEES OF MEMBERS OF VALUATION COURTS

2. There shall be payable to or in respect of the chairman of a valuation court appointed under subsection (1) of section 12 of the Act the fees prescribed in the Schedule.

3. Any fees paid to an additional member of a valuation court appointed under subsection (1) of section 12 of the Act shall not exceed the fees prescribed in the Schedule.

SCHEDULE

[Rules 2 & 3.]

<i>Fees</i>	<i>Sh.</i>
For a morning session of the valuation court	2,750
For an afternoon session of the valuation court	1,750
For an evening session of the valuation court	1,750

MOMBASA MUNICIPAL COUNCIL (RATING OF ADDED AREAS) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Appointment of valuer.
4. Declaration and contents of provisional assessment roll.
5. Powers of person preparing provisional assessment roll.
6. Assessment zones.
7. Basis of assessment.
8. Provisional assessment roll inspections and objections.
9. Where there are no objections or all objections have been withdrawn.
10. Appointment of valuation court.
11. Singing of provisional assessment roll.
12. Application of Act.

SCHEDULE-

THE MOMBASA MUNICIPAL COUNCIL
(RATING OF ADDED AREAS) REGULATIONS

[Subsidiary]

**MOMBASA MUNICIPAL COUNCIL (RATING
OF ADDED AREAS) REGULATIONS**

[L.N. 300/1962.]

1. Citation

These Regulations may be cited as the Mombasa Municipal Council (Rating of Added Areas) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**added areas**” means those parts of the Municipality of Mombasa which were added to the former Municipality of Mombasa by section 30 of the Municipalities (Amendment and Miscellaneous Provisions) Ordinance, 1959 (now repealed);

“**assessment zone**” means an area which is the subject of a zonal assessment in accordance with the plan referred to in regulation 6;

“**council**” means the Municipal Council of Mombasa;

“**former municipality**” means the area under the jurisdiction and control of the Council immediately prior to the coming into operation of section 30 of the Municipalities (Amendment and Miscellaneous Provisions) Ordinance, 1959 (now repealed);

“**land**”, “**rateable owner**”, “**rateable property**” and “**town clerk**” have the meanings assigned to them respectively in sections 2 and 7 of the Act;

“**municipality**” means the area under the jurisdiction and control of the council;

“**property**” means rateable property, public land as defined in section 25 of the Act and Community land as defined in section 26 of the Act;

“**provisional assessment roll**” means the provisional assessment roll prepared by the valuer in accordance with regulation 4;

“**valuer**” means the person or persons appointed by the council in accordance with regulation 3;

“**zonal assessment**” means an assessment per acre or graduated assessment per acre applicable to an assessment zone, which zonal assessment shall be the value of unimproved land (as defined in subsection (2) of section 8 of the Act) at the time of valuation applicable to the valuation roll in force for the time being for the former municipality.

3. Appointment of valuer

The council shall by resolution appoint one or more competent persons as a valuer, to be approved by the Minister, to prepare an assessment roll (hereinafter referred to as the “provisional assessment roll”).

4. Declaration and contents of provisional assessment roll

(1) The valuer shall prepare in respect of the added areas a provisional assessment roll of all property, and the roll shall include in respect of each part of the property—

- (i) the name and address of the rateable owner or the Government as the case may be;
- (ii) the zone and situation of the property and the Survey land reference number thereof;
- (iii) the area of the property; and
- (iv) the assessment of the property.

- (2) The “provisional assessment roll” shall be prepared so as to show separately—
- (i) “rateable property”;
 - (ii) “Government land”;
 - (iii) “Community land”.

[L.N. 135/1962.]

5. Powers of person preparing provisional assessment roll

For the purpose of preparing the whole or part of the provisional assessment roll the valuer shall have all the powers conferred upon a valuer by section 5 of the Act and all the provisions of that section shall apply *mutatis mutandis* to the preparation provisional assessment roll.

6. Assessment zones

For the purpose of compiling the provisional assessment roll the added areas shall be divided into the assessment zones as shown on the plan annexed to these Regulations and deposited with the Minister, a copy of which plan is deposited with the council at the Town Hall, Mombasa.

7. Basis of assessment

- (1) The valuer shall ascribe to each assessment zone a zonal assessment.
- (2) The valuer shall assess each property within each zone at an assessment per acre or a graduated assessment per acre having regard to the zonal assessment of the assessment zone in which the property is situated.

8. Provisional assessment roll inspections and objections

(1) When the provisional assessment roll has been completed it shall be deposited with and lie at the office of the council for public inspection and any person may inspect the same without charge during ordinary business hours and may take copies or extracts therefrom.

(2) When the provisional assessment roll has been deposited with the council in accordance with paragraph (1) the town clerk shall give notice in the *Gazette* and in one or more newspapers circulating in the municipality that the provisional assessment roll has been deposited and is available for inspection and that any objection to the roll, in the form set out in the Schedule, may be lodged with the town clerk within such time, not being less than twenty-eight days from the date of the publication of the notice in the *Gazette*, as shall be specified in the notice:

Provided that the period of twenty-eight days within which any objections may be lodged with the town clerk shall not apply to any objections made to public land as defined in section 25 of the Act or Community land as defined in section 26 of the Act.

(3) The town clerk shall, within fourteen days after the date on which a notice of objection is lodged with him, send a copy thereof to the rateable owner of the property to which the objection relates if the person is not the maker of the objection.

(4) Any person (including the council or any person generally or specially authorized in that behalf by the council) may lodge an objection with the town clerk on any of the following grounds—

- (i) that rateable property, which should have been included, has been omitted from the provisional assessment roll;
- (ii) that the zonal assessment ascribed to any assessment zone included in the provisional assessment roll is incorrect;
- (iii) that the acreage of any rateable property has not been correctly stated in the provisional assessment roll;
- (iv) that, having regard to the zonal assessment, the assessment of any rateable property is incorrect;

Valuation for Rating

[Subsidiary]

- (v) that the provisional assessment roll contains some other error, omission or misdescription.

(5) No person shall be entitled to have an objection heard by valuation court unless he shall first have lodged a notice of objection in accordance with the provisions of these Regulations.

(6) Notwithstanding anything hereinbefore contained a valuation court may if it deems fit consider an objection although notice thereof has not been given in accordance with the provisions of these Regulations.

9. Where there are no objections or all objections have been withdrawn

(1) If, on the expiration of the period of twenty-eight days referred to in paragraph (2) of regulation 8, no objections have been received or if all objections duly received shall have been withdrawn prior to the day fixed for the first sitting of the valuation court the town clerk shall endorse upon the provisional assessment roll and sign a certificate to that effect.

(2) The town clerk shall publish notice in the *Gazette* and in one or more newspapers circulating in the municipality that the assessment roll has been signed and certified under this Regulation.

10. Appointment of valuation court

(1) If the provisions of regulation 9 have not prevailed the council shall appoint a valuation court in accordance with the provisions of section 12 or section 13 of the Act.

(2) The provisions of sections 14, 15, 16 and 17 of the Act shall apply *mutatis mutandis* in relation to the valuation court appointed under paragraph (1).

11. Signing of provisional assessment roll

(1) As soon as may be after all objections have been heard and determined or otherwise disposed of, and after any necessary amendments have been made in the provisional assessment roll, the president of the valuation court shall endorse and sign a certificate to that effect upon such provisional assessment roll.

(2) A provisional assessment roll, on being signed and certified by the chairman of the valuation court under paragraph (1) or by the town clerk under regulation 9 shall be the assessment roll for the added areas.

12. Application of Act

The provisions of the Act or any Regulations or Rules made thereunder shall, in so far as they have been not expressly or by implication modified by these Regulations, apply *mutatis mutandis* to the rating of the added areas pursuant to these Regulations.

Valuation for Rating

[Subsidiary]

SCHEDULE
[Regulation 8(b).]

MOMBASA MUNICIPAL COUNCIL (RATING OF ADDED AREAS) REGULATIONS

OBJECTION NO.
(To be filled in by Clerk to the Valuation Court)

Against an entry in the Provisional Assessment Roll prepared under the provisions of the Mombasa Municipal Council (Rating of Added Areas) Regulations.

YEAR 20

To: The Valuation Court of the Municipality of Mombasa.

The following entry has been made in the Provisional Assessment Roll of the Municipality of Mombasa—

Serial No.	Section No.	Plot No.	Name of Rateable Owner	Nature of Interest	Area Acres	Zone	Assessment

.....
(Here insert copy of the entry complained of)

.....
(Here insert the name of the objector)

I do object to the said entry and ask that—

.....
(The objector will here state what entry he considers should be substituted for the above)
On the following grounds—

.....
(The objector will here state the reason why he considers the entry should be altered)

Date

.....
Signature of Objector

.....
Address for Service of Notice

Decision of Valuation Court—

.....
Date

.....
Signature of Chairman of Valuation Court