

18216

CO 533/425
KENYA

18216

THE LOCAL GOVERNMENT (RATING)
(AMENDMENT) ORDINANCE,
1932

No XVI of 1932

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15963/30
38198/36

Rating 29/6
 Street (Road) 37/2
 Priestman 7/1
 Mr. Davis 5/8
 Mr. Robinson 15/8
 Mr. Hill 20/8
 311 24/8
 295 24/8
 297 27/8
 Library Road 34/1
 No. 257

No. 2 authenticated copy of an Ordinance to amend the Local Government (Rating) Ordinance, 1928, together with Legal Report. (Printed copy to follow.)

Printed copies to Library.

2 Col. Secy — 3/11 — 18/6/32
Two 10 printed copies of the Ordinance

The Ordinance enclosed with (1) contravenes the recommendations of the Feetham Commission regarding the rating of municipalities in two respects

- (a) by waiving a charge for specific services rendered, and
- (b) by altering the basic ^{system of} rating suggested by that Commission.

The general history of the question is contained in Mr. Allen's memorandum at (15) in 15968/30, from which it will be observed that the 1928 Rating Ordinance mainly follows the Feetham Commission Report. That Report laid down as regards Mombasa (vide p.282 of volume 1) that the cost of essentially private services, such as the removal of refuse, should be borne by the persons who receive the benefits thereof. The reasons for this recommendation are further elaborated in the Nairobi portion of that Report, see pp.73-74.

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The Governor's approval of the reversion to the old system of charging the cost of this service against the general revenues of the municipality ^{would} have caused an increase in the original rate, and the Government as the largest land owner would have suffered most from such an increase in rating. The present Ordinance, therefore, amends the system of rating

rating laid down in Section 15 of the Local Government Rating Ordinance, 1928, so as to enable a higher rate to be levied on improvements than is permitted by that Ordinance. The gain to Government from this amendment is because, as stated on p. 291 of the Festham Report, volume 1, the value of improvements held by the Crown in proportion to the value of improvements held by the public is substantially less than the value of land held by the Crown in proportion to the value of land held by the public; if, therefore, any proportion of the rate is imposed upon improvements, and the Government contributes upon the value of improvements in the same manner as private owners, the total contribution payable will represent a smaller proportion of the total rate and contribution combined than would be the case if the whole of the rate was imposed on land. The Commission, therefore, recommended a special contribution by Government to counterbalance this inequality in the event of an improvements rate being levied, and this recommendation was incorporated in Section 87(2)(b) of the Local Government Municipalities Ordinance, 1928.

The reason for this recommendation was to remove the strong temptation on the part of the Board to avoid the imposition

of a rate on improvements - it was not foreseen by the Commission that the Government might succumb to the equally strong temptation to increase the improvements rates as laid down in Section 15(4) of the Rating Ordinance.

The result is that the percentage amount of the improvements rate, instead of being limited to a percentage amount not exceeding that of the additional rate on unimproved site values for the year, can now in the case of Kompassa be increased to a percentage amount equal to the original and additional percentage rates on unimproved site values for the year.

The reasons against an increase of rating on improvements to the extent of making this rate equal to that on unimproved site values appear to be as follows, vide p. 200 of volume 1 of the Report:-

(1) Buildings bear a share of taxation which is proportionately a heavier share than the burden borne by land, because the owners of house property are compelled to contribute to the profits made on certain municipal services, while owners of land which is not built upon make no contribution to such profits.

(2) Apart from this question of contribution to profits on municipal services, the amount actually paid by way of assessment rates in respect of buildings in the Transvaal is greater than the amount paid in respect of land owing to the higher figure at which buildings stand in the valuation roll.

* subject to a 1% maximum. The original rate & additional rates may be 1/2% & 1% respectively.
JAGH.

copy below

Vol. 1 of the Report
Page 291

of

It

It does not necessarily follow that these reasons apply in the case of Mombasa where the valuation rule has only recently been completed.

It seems inexplicable that the Municipal Board should have agreed to an alteration in the basis of rating which would increase the charge on the general public to the benefit of the Government. (It is not stated that the Municipal Board did, in fact, agree.)

I can only suggest the possibility of this proposal being designed to counter-balance the inequitable position in 1929 and 1930, when, owing to the non-completion of the improvements roll, rating was confined to that on unimproved site values, see p.25 of the 1930 Report by the Commission for Local Government.

Another point also is suggested by p.24 of that Report where it is stated that owing to the refusal of the Indians to accept nomination to the Municipal Board, 4 Europeans and 1 coloured were nominated in their places. If the non-representation of Indians on the Board continues, there may be a case for an Indian protest against this increase in the rating on improvements, because although the probability is that this rate falls hardest on Europeans, the Indians are presumably the next in order to suffer by an increase.

It is stated in 15 in 1596/1900 the existing (rating) arrangements hit the Indian landless & made proposals like the Europeans. On

*The estate records that in 1900 it was agreed that there was considerable improvement in the attitude of the Staff 1919.

A. In the debate the A.S. said that the matter was arranged with the Board 1919.

On the face of it there seems a case for asking the Governor (a) for further particulars of the reasons for abandoning the imposition of a special rate for services rendered, and (b) for a fuller statement of the reasons for discarding the basic rates in the 1920 Rating Ordinance seeing that a revision of the financial relationships between the municipality and the Government is due to be undertaken during 1933.

115 P. 1115 & 1116
7/7/32

With all respect to the Justice Feetham, the case for charging the community and not the individual, with the cost of refuse removal seems unanswerable. It is, of course, the practice in the country, and is supported by the argument used by the Justice himself (v) p 74 of Vol I "The services are necessary for the protection of the health of the whole community."

The modification of basic rates for which the Ordinance provides is a necessary consequence, as explained in para 2 of the draft.

*Thompson is a Rural District ~~the~~ member (by order of the h. of Health) to live with as special expenses on part only of the district. A.S.G.V.

G3

115 P. 1115 & 1116
9/8/32

I have made two marginal notes above. No other legal advice.

A.S.G.V. 11578

accepted as necessary for the interest
 The power retained. This memo to have
 no dispatch in principle. The trustee
 will send me a form upon the
 full final facilities. There seems no
 reason to object or comment, so
 I return as to the trustee proposed.

(As the effect of the current - extra interest -
 conflictible involves I need the result of
 my investigation in case the matter
 comes up again)

20a

(State if the power to
 accept is intended only
 in the exceptional cases)

W. Allen
 20/2/32

To 301630 (1 annuity) 6/3 24 AUG 1932

Handwritten signature and initials

Order No. 1928

Original rate. maximum $\frac{1}{2}\%$. s. 15(1).

Additional rate.

- (1) If improvement rate to
- (1) loan. maximum 1% . s. 15(2)(a)
- (2) otherwise. - - - $\frac{1}{2}\%$. s. 15(2)(b).

Improvement rate

- None unless $\frac{1}{2}\%$ original rate loan. s. 15(3)
- maximum shall not exceed
- (1) additional rate
- (2) in any case 1% .

with the proposed original rate $\frac{1}{2}\%$ +
 add rate $\frac{1}{6}\%$ the improvement rate
 not to exceed $\frac{1}{6}\%$ - these do not
 to exceed $\frac{1}{7}\%$.

amending
 Order No. 932

Original rate - not affected

Additional rate. - - -

Improvement rate.

until 1 Jan 1935 or such later date
 as the Govt. (or any) decide the
 rate shall not exceed

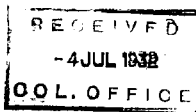
- (1) total of original +
 additional rates.
- (2) in any case 1% .

In some cases the proposed improvement rate of $\frac{1}{7}\%$
 is less than the proposed improvement rate of $\frac{1}{7}\%$.



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2
THE SECRETARIAT,
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
No. S./C. MUN. 1/3/8/47.
AND DATE



15th June, 1932.

No 1
The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and with reference to Kenya despatch No. 271 of the 9th June, 1932, has the honour to transmitt herewith ten printed copies of Ordinance No. XVI of 1932 entitled "An Ordinance to amend the Local Government (Rating) Ordinance, 1928".



Colony and Protectorate of Kenya.

IN THE TWENTY-THIRD YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this 26th day of May, 1932

J. BYRNE.

Governor.

AN ORDINANCE TO AMEND THE LOCAL
GOVERNMENT (RATING) ORDINANCE, 1928

No. XVI of 1932

An Ordinance to Amend the Local Government (Rating) Ordinance, 1928.

ENACTED by the Governor of the Colony of Kenya,
with the advice and consent of the Legislative Council thereof,
as follows:—

1. This Ordinance may be cited as "the Local Government (Rating) (Amendment) Ordinance, 1932," and shall be read as one with the Local Government (Rating) Ordinance, 1928, hereinafter referred to as "the Principal Ordinance." Short title.
No. 20 of
1928.

2. After the commencement of this Ordinance and notwithstanding anything in the Principal Ordinance contained, the provisions of sub-section (4) of section 15 of that Ordinance shall not have any force or effect within the Municipality of Mombasa until the first day of January, 1935, or such later date as the Governor in Council may decide. Improvements
rate not to
apply to
Mombasa
until
1st January,
1935.

Provided, however, that at any time prior to the date aforesaid, it shall be lawful for the Municipal Board of Mombasa to impose a rate or rates upon the value of improvements as appearing in the valuation roll for each and any financial year of such amount as the said Board shall determine (such rate or rates being hereinafter referred to as the "improvements rate").

Provided, further, that in the case of any improvements rate imposed by the said Board at any time prior to the date aforesaid, the percentage payable shall not in any one financial year exceed the total percentage payable for such financial year in respect of both the original and additional rates on the unimproved value of land, and such improvements rate shall not in any case exceed one per centum in any one financial year except as provided in sub-section (6) of section 15 of the Principal Ordinance.

No. XVI

Local Government (Rating) 1932

Passed in the Legislative Council the eleventh day of May, in the year of Our Lord one thousand nine hundred and thirty-two.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

H. E. BADER

Acting Clerk of the Legislative Council.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI.

KENYA
No. 27/



GOVERNMENT HOUSE
NAIROBI,
KENYA.

9th June, 1932.

RECEIVED
27 JUN 1932
COL. OFFICE

Sir,

I have the honour to transmit two authenticated copies of Ordinance No. XVI of 1932 entitled "An Ordinance to amend the Local Government (Rating) Ordinance, 1928", which passed its third reading in Legislative Council on the 11th May, and to which I assented on the 26th May, 1932, together with the Legal Report thereon in duplicate prepared by the Attorney General.

Ten printed copies of the Ordinance are being sent under separate cover.

The object of the Ordinance is stated in the Legal Report, and I would add that I have fully considered the policy of the Municipal Board of Mombasa in accepting the cost of refuse removal as a charge against its general revenues and in the peculiar circumstances existing in Mombasa, especially in connection with the poorer native inhabitants, I have agreed to its adoption.

The necessity for this Ordinance arose in fact from the position of Government as a contributor in lieu of rates and my insistence that, in so far as Government was concerned, the revenue lost by the abolition of refuse removal fees should be recovered by means of a rate on improvements, and otherwise, by virtue of its being the largest landholder, Government would have been unfairly penalized by this change of policy. I may add that the limitation to the 1st day of January, 1935 was inserted with reference to the revision of the financial relationships

between --

THE RIGHT HONOURABLE
MAJOR SIR PHILIP GUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON...S.W.1.

Received 6.30 E/32 AUG 1932

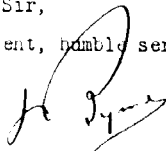
between this Municipality and Government (as prescribed in Section 88 of the Local Government (Municipalities) Ordinance, 1928) which will be undertaken during 1933.

3. I trust that His Majesty will not be advised to exercise his power of disallowance in respect of this measure.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL.
GOVERNOR

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL, 1932.

Under the Local Government (Rating) Ordinance, 1928, it is open to Local Authority to impose (i) an "original" rate, (ii) an "additional" rate. An "additional" rate may be imposed on both site values and improvements but ^{if} it is desired to impose this rate on improvements, it is necessary that a $\frac{1}{2}$ per cent rate should have been imposed as original rate on site values and also that, in respect of the "additional" rate there is the percentage imposed on improvements shall not exceed the percentage imposed on site values.

A change in policy is required in regard to the imposition of rates on land as provided in the Local Government (Rating) Ordinance, 1928, and it is proposed that a "substantial" "improvement" rate be levied upon the site value of the property and also on individual properties. It is proposed that it be possible to impose this rate on the site value of the property and also on the value of the improvements on the property. The rate on site value shall be $\frac{1}{4}$ per cent and the rate on improvements shall be $\frac{1}{4}$ per cent.

The proposed rate on site value shall be levied on the site value of the property and the rate on improvements shall be levied on the value of the improvements on the property. The proposed rate on site value shall be $\frac{1}{4}$ per cent and the rate on improvements shall be $\frac{1}{4}$ per cent. The proposed rate on site value shall be levied on the site value of the property and the rate on improvements shall be levied on the value of the improvements on the property.

In my opinion it is necessary that the Government should properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
11th May, 1932.

T. D. H. ...
ACTING ATTORNEY GENERAL.