


Approved
DSS/N/A
5th Nov 2024

THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

REPORT OF:

THE MEDIATION COMMITTEE ON THE NATIONAL RATING BILL (NATIONAL ASSEMBLY BILL NO. 55 OF 2022)

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|  THE NATIONAL ASSEMBLY PAPERS LAID | |
| DATE: 05 NOV 2024 | |
| DAY: Tuesday | |
| TABLED BY: | Hon. Joses Helmuti, MP Member, Mediation Committee |
| CLERK-AT THE TABLE: | Moses Lomale |

JOINT CLERKS' CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER 2024

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Mediation Committee on the National Rating Bill (*National Assembly Bill No. 55 of 2022*). The Senate considered the Bill and transmitted their amendments to the National Assembly for consideration on 9th May 2024.

The National Assembly approved the Motion on the Report of the Committee of the Whole House on the consideration of Senate Amendments to the National Rating Bill, 2022 on 12th June 2024. The Committee rejected some of the Senate amendments to the Bill warranting the committal of the Bill to the Mediation Committee according to Article 112 (2) (b) of the Constitution.

The Speaker of the National Assembly appointed Members to the Mediation Committee on Wednesday, 24th July 2024 as required by Standing Order 149 (2) of the National Assembly Standing Orders while the Speaker of the Senate appointed Senators to the Committee on Tuesday, 13th August 2024 under provisions of Standing Order No. 166 (2) of the Senate Standing Orders.

The Committee held four meetings to consider the clauses of the Bill that were under mediation and arrived at a mediated version of the Bill.

The Committee is grateful to the Offices of the Speakers and Clerks of both Houses of Parliament for the logistical and technical support accorded to it in the execution of its mandate.

Finally, I express my appreciation to Members of the Committee and the Committee Secretariat for their patience, sacrifice, endurance and commitment to the assignment which enabled the Committee to complete the task within the stipulated period.

It is now my pleasant privilege and honour to commend this report to the Houses for approval on behalf of the Mediation Committee pursuant to Article 113 (2) of the Constitution, Standing Order 150 (1) of the National Assembly Standing Orders and Standing Order 167 (1) of the Senate Standing Orders.

Hon. Joash Nyamache Nyamoko, HSC, MP
Chairperson, Mediation Committee on the National Rating Bill (N.A. Bill No. 55 of 2022)

CHAPTER ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Mediation Committee on the National Rating Bill (*National Assembly Bill No. 55 of 2022*) was constituted by the Speaker of the National Assembly pursuant to Standing Order 149 (2) of the National Assembly Standing Orders and the Speaker of the Senate pursuant to Standing Order 166 (2) of the Senate Standing Orders on 24th July 2024 and 13th August 2024 respectively.

1.2 MANDATE OF THE COMMITTEE

2. The Mediation Committee derives its mandate from the provisions of Articles 112 (b) and 113 of the Constitution, Standing Order 149 of the National Assembly Standing Orders and Standing Order 166 of the Senate Standing Orders which outline the functions of the Committee as follows:
 - 1) *To consider Bills where the Houses do not agree on all or any of the amendments made by either Houses;*
 - 2) *To consider Bills where either House rejects a Motion that a Bill which originated in the other House be read a Second or Third time; and,*
 - 3) *To attempt to develop a version of the Bill that both Houses will pass.*

1.3 COMMITTEE MEETINGS

3. The Committee held four (4) sittings to deliberate on the National Rating Bill (*National Assembly Bill No. 55 of 2022*) in accordance with the Constitution and relevant provisions of the Standing Orders of the Senate and the National Assembly.
4. During the first sitting, the Committee elected Hon. Joash Nyamache Nyamoko, HSC, MP and Sen. John Methu Muhia, MP as Chairperson and Vice-Chairperson respectively pursuant to Standing Order 166 (4) and (5) of the Senate Standing Orders and Standing Order 149 (4) of the National Assembly Standing Orders.

1.3 COMMITTEE MEMBERSHIP

5. The Mediation Committee on the National Rating Bill (*National Assembly Bill No. 55 of 2024*) comprises the following Members:

Chairperson

Hon. Joash Nyamache Nyamoko, HSC, MP
North Mugirango Constituency
UDA Party

Vice-Chairperson

Sen. John Methu Muhia, MP
Nyandarua County
UDA Party

Hon. Jayne Kihara, MP
Naivasha Constituency
UDA Party

Sen. Dr. Steve Ltumbesi Lelegwe, CBS, MP
Samburu County
UDA Party

Hon. Joseph Gitari, MP
Kirinyaga Central Constituency
UDA Party

Sen. William Kipkorir Cheptumo, MP
Baringo County
UDA Party

Hon. Josses Lelmengit, MP
Emgwen Constituency
UDA Party

Sen. Wahome Wamatinga, MP
Nyeri County
UDA Party

Hon. Mathias Robi, MP
Kuria West Constituency
UDA Party

Sen. Mariam Sheikh Omar, MP
Nominated Senator
UDM Party

Hon. Paul Katana, MP
Kaloleni Constituency
ODM Party

Sen. Issa Boy Juma, MP
Kwale County
ODM Party

Hon. Eng. Thuddeus Nzambia, MP
Kilome Constituency
WIPER Party

Sen. Johnes Mwaruma, MP
Taita Taveta County
ODM Party

Hon. Zamzam Mohamed, MP
Mombasa County
ODM Party

Sen. Agnes Kavindu Muthama, MP
Machakos County
WIPER Party

Hon. Fatuma Jehow, MP
Wajir County
ODM Party

Sen. Beatrice Akinyi Ogolla, MP
Nominated Senator
ODM Party

1.4 COMMITTEE SECRETARIAT

6. The Committee was facilitated by the following staff:

- | | | |
|------------------------|---|-------------------------|
| 1. Mr. Joshua Ondari | - | Clerk Assistant |
| 2. Mr. Victor Bett | - | Clerk Assistant |
| 3. Ms. Ivy Nyambura | - | Clerk Assistant |
| 4. Mr. Binensa Mabungu | - | Clerk Assistant |
| 5. Mr. Sidney Lugaga | - | Senior Legal Counsel |
| 6. Ms. Angela Kagunyi | - | Legal Counsel |
| 7. Ms. Audrey Ogutu | - | Legal Counsel |
| 8. Ms. Brenda Michira | - | Research Officer |
| 9. Mr. John Gichia | - | Research Officer |
| 10. Mr. Jack Lemeteki | - | Media Relations Officer |
| 11. Mr. Cosmas Akhonya | - | Audio Officer |
| 12. Ms. Shirley Milimu | - | Audio Officer |

CHAPTER TWO

2 SENATE AMENDMENTS TO THE NATIONAL RATING BILL (NATIONAL ASSEMBLY BILL NO. 55 OF 2022)

2.1 INTRODUCTION

7. The National Rating Bill (*National Assembly Bill No. 55 of 2022*) is a Bill sponsored by the Leader of the Majority Party.
8. The Bill was published vide Kenya Gazette Supplement No. 185 of 15th November 2022 and was considered and passed with amendments by the National Assembly on 11th October 2023. The Bill, being a Bill concerning counties was forwarded to the Senate for consideration pursuant to Standing Order 142 of the National Assembly Standing Orders.
9. The Senate considered and passed the Bill with amendments on 9th May 2024 and transmitted the amendments to the National Assembly seeking concurrence on 17th May 2024.
10. The National Assembly approved the Motion on the Report of the Committee of the Whole House on the consideration of Senate Amendments to the National Rating Bill, 2022 on 12th June 2024. The Committee rejected some of the Senate amendments to the Bill warranting committal of the Bill to the mediation committee pursuant to Article 112 (2) (b) of the Constitution.

2.2 CLAUSES UNDER MEDIATION

The following clauses of the National Rating Bill (*National Assembly Bill No. 55 of 2022*) were considered by the Mediation Committee:

Senate Amendment to Clause 2

CLAUSE 2

2. THAT clause 2 of the Bill be amended by deleting —
 - (a) the definition of the term 'occupier' and inserting therefor the following new definition

"occupier" means, in relation to rateable property, a person who is in physical possession of premises, or a person who has control over the premises, where the rateable owner is unknown;

Resolution

The Mediation Committee considered the definition and, after deliberation, resolved not to adopt the proposal from the Senate. It was observed that clause 8(1) of the Bill already clarifies the definition of a rateable owner, making it unnecessary to provide additional clarification within the definition of an 'occupier.'

- (b) the definition of the term 'valuation roll' and inserting therefor the following new definition—

"valuation roll" means a roll prepared in accordance with this Act;

Resolution

The Mediation Committee deliberated and resolved to adopt the proposal as submitted from the Senate.

(c) the definition of 'Chief Government Valuer' and inserting the following new definition

"Chief Government Valuer" means a valuer appointed under section 24A.

Resolution

The Mediation Committee deliberated and resolved to adopt the proposal as submitted from the Senate.

Senate amendment to clause 12

CLAUSE 12

3. THAT clause 12 of the Bill be amended in —

- (a) subclause (3) by inserting the words 'and the Council of County Governors' immediately after the words 'National Land Commission'.

- **Resolution**

- The Mediation Committee deliberated and resolved to adopt the proposal as submitted from the Senate with the following modification—

“subclause (3) by inserting the words 'and the Council of Governors' immediately after the words 'National Land Commission' ”

- (b) subclause (4) by inserting the words 'in consultation with the Council of County Governors' immediately after the words 'The Cabinet Secretary may'.

Resolution

The Mediation Committee deliberated and resolved to adopt the proposal as submitted from the Senate with the following modification—

“subclause (4) by inserting the words 'and the Council of Governors' immediately after the words 'The Cabinet Secretary may’”

Senate amendment to clause 20.

CLAUSE 20

4. THAT clause 20 of the Bill be amended in —

- (a) subclause (2) by inserting the words 'and the Council of County Governors' immediately after the words 'the Cabinet Secretary'.

Resolution

The Mediation Committee deliberated and resolved to adopt the proposal as submitted from the Senate with the following modification—

“subclause (2) by inserting the words 'and the Council of Governors' immediately after the words 'the Cabinet Secretary’”

- (b) subclause (6) by deleting the words 'recommend to the Cabinet Secretary Ministry of Lands to further review before submission' and inserting therefor the word 'submit'.

Resolution

The Committee considered the proposal from the Senate to remove the requirement for the Cabinet Secretary of Lands to review claims for contribution in lieu of rates and resolved not to adopt it. However, the Committee recommended and resolved to an amendment to the existing subclause (6) to clarify the role of the Cabinet Secretary, Ministry of Lands as follows—

“subclause (6) by deleting the words “further review before submission” and substituting therefor the word “transmit”

Senate amendment to clause 30

CLAUSE 30

5. THAT clause 30 of the Bill be amended by deleting —

- (a) subclause (4),
- (b) sub clause (5); and
- (c) subclause (6).

Resolution

The Committee deliberated and resolved to adopt the proposal from the Senate as proposed with a modification to delete subclause (3) of Clause 30 and insert the subclause (3) as subclause (1) under the proposed new clause 30A as follows—

“CLAUSE 30

THAT clause 30 of the Bill be amended by deleting —

- (a) subclause (3),
- (b) subclause (4),
- (c) sub clause (5); and
- (d) subclause (6).”

Senate amendment to clause 32

CLAUSE 32

6. THAT clause 32 of the Bill be amended -

- (a) in subclause (6) by deleting the word 'tabling' appearing immediately after the words 'county assembly for' and inserting therefor the word 'approval'.

Resolution

The Committee deliberated and resolved to adopt the proposal from the Senate as proposed with the following modification—

“in subclause (6) by inserting the words “for consideration” appearing immediately after the word 'tabling’.

- (b) by inserting the following new subclauses immediately after subclause (6) —
 - (7) The County Assembly shall, within sixty (60) sitting days of submission under subsection (6), by resolution approve or reject the draft valuation roll or draft supplementary valuation roll.
 - (8) Where the County Assembly fails to make a resolution within the period under subsection (7), the draft valuation roll or draft supplementary valuation roll shall be deemed to have been approved.

Resolution

The Committee deliberated and resolved to adopt the proposal as submitted from the Senate.

Senate amendment to clause 34

CLAUSE 34

7. THAT clause 34 of the Bill be amended in subclause (6) by deleting the word 'may' appearing immediately after the words 'a county government' and inserting therefor the word "shall".

Resolution

The Committee deliberated and resolved not to adopt the proposal from the Senate in its current form. However, the Committee resolved to redraft subclause (6) of the Bill to introduce new provisions that establish procedures for handling objections after the valuer has received them as follows—

CLAUSE 34

THAT clause 34 of the Bill be amended by deleting subclause (6) and substituting therefor the following new subclauses—

“(6) A valuer who receives an objection under subsection (5) shall review the objection and submit a response to the County Executive Committee Member within sixty days.

(6A) The County Executive Committee Member shall, upon receipt of the response of the valuer, constitute a County Valuation Board and submit a response to an objection to the County Valuation Board for determination in accordance with subsection (6B).

(6B) A County Valuation Board constituted under subsection (6A) shall hear and determine objections to the valuation roll or supplementary valuation roll or any other dispute that may arise from rates determination and enforcements of rates payment at the first instance, before submission of a dispute to the Tribunal.

(6C) A County Valuation Board established under subsection (6A) shall—

(a) hear and determine the objection; and

(b) communicate the decision of the Board in writing to the objector, the rateable owner, the County Executive Committee Member, and the valuer.

(6D) A person who is not satisfied with a decision under subsection 6C(b) may appeal the decision before the Tribunal.”

Senate amendment to clause 56

CLAUSE 56

8. THAT clause 56 of the Bill be amended in —

- (a) subclause (1) by deleting the word 'may' appearing immediately after the words 'The Cabinet Secretary' and inserting therefor the words 'shall, in consultation with the Council of County Governors, '

Resolution

The Committee deliberated resolved to adopt the proposal from the Senate with the following modification—

“subclause (1) by deleting the word 'may' appearing immediately after the words 'The Cabinet Secretary' and inserting therefor the words 'shall, in consultation with the Council of Governors, '

- (b) subclause (2) by deleting the word 'may', appearing immediately after the words "the Cabinet Secretary" and inserting therefor the words "shall, in consultation with the Council of County Governors,".

Resolution

The Committee deliberated and resolved to adopt the proposal from the Senate as proposed with the following modification—

“subclause (2) by deleting the word 'may', appearing immediately after the words "the Cabinet Secretary" and inserting therefor the words "shall, in consultation with the Council of Governors,".

- (c) subclause (2) by inserting the following new paragraph immediately after paragraph (a)—
(a)—
(aa) the technological systems to be used in the preparation and implementation of the valuation roll or the supplementary valuation roll.

Resolution

The Committee deliberated and resolved not to adopt the proposal from the Senate. It was noted that clause 6 of the Bill already provides that each county government shall

employ appropriate technological systems in the preparation and implementation of the valuation roll or supplementary valuation roll. The Committee further observed that counties should be afforded the flexibility to select technological systems that best suit their specific needs, without being constrained by prescriptive regulations set at the national level.

Senate proposal on a new clause 24A

NEW CLAUSE 24A

1. THAT the Bill be amended by inserting the following new clauses immediately after clause 24

Chief Government Valuer 24A.

Resolution

The Committee deliberated and resolved to adopt the proposal from the Senate as proposed with the following modification—

Chief Government Valuer.

24A. (1) There shall be a Chief Government Valuer who shall be the principal advisor to the National Government and County governments on all matters relating to valuation.

(2) The Chief Government Valuer shall be appointed by the Public Service Commission through a competitive recruitment process

Qualification of the Chief Government Valuer.

24B. (1) A person is qualified for appointment as the Chief

Government Valuer if that person —

(a) is a citizen of Kenya;

(b) has a minimum of a Bachelor's degree from a university recognized in Kenya in — (i) land economics;

(ii) real estate; or;

(iii) any other relevant field;

(c) has at least fifteen years' experience in the valuation practice;

(d) is a full member of the Institution of Surveyors of Kenya (Chapter on Valuation) and in good standing; and

(e) meets the requirements of Chapter Six of the Constitution.

Establishment of the Office of the Chief Government

24A. (1) There is established the office of the Chief Government Valuer who shall be recruited and appointed by the Public Service Commission through a

Valuer. competitive process.

(2) The Chief Government Valuer shall be the principal advisor to the National Government and county governments on all matters relating to valuation.

Senate proposal on new clause 30A

NEW CLAUSE 30A.

2. THAT the Bill be amended by inserting the following new Clause immediately after clause 30—

Supplementary Valuation Roll 30A.

(1) The county government shall, in preparing a valuation roll, rely on data or information that was used in the preparation of the valuation roll to assign values to be adopted on the properties contained in a supplementary valuation roll.

(2) A supplementary valuation roll shall include only those alterations and additions to the valuation roll which are permitted by this section.

(3) The draft supplementary valuation roll shall take into account —

(a) rateable property omitted from valuation;

(b) new rateable property;

(c) rateable property which is subdivided or consolidated with other rateable property; and,

(d) re-categorization of the rate on the change of use of the rateable property.

Resolution

The Committee deliberated and resolved to adopt the proposal from the Senate as proposed with the following modification—

**Supplementary
Valuation
Roll.**

30A.

(1) Where the county government has reason to believe that a supplementary valuation roll needs to be prepared, the county government shall cause a supplementary valuation roll to be

prepared where necessary.

(2) The county government shall, in preparing a supplementary valuation roll, rely on data or information that was used in the preparation of the valuation roll to assign values to be adopted on the properties contained in a supplementary valuation roll.

(3) A supplementary valuation roll shall include only those alterations and additions to the valuation roll which are permitted by this section.

(4) The draft supplementary valuation roll shall take into account—

- (a) any rateable property omitted from valuation;
- (b) any new rateable property;
- (c) any rateable property which is subdivided or consolidated with other rateable property;
- (d) re-categorization of the rate on the change of use of the rateable property;

any rateable property which, from any cause particular to such rateable property arising since the time of valuation has materially increased or decreased in value, and include such valuation in a supplementary valuation roll.

CHAPTER THREE

3 COMMITTEE RECOMMENDATIONS

18. The Mediation Committee considered the Senate amendments on the National Rating Bill (*National Assembly Bill No. 55 of 2022*) and recommended as follows:

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting —

- (a) the definition of 'Chief Government Valuer' and substituting therefor with the following new definition—

"Chief Government Valuer" means a valuer appointed under section 24A;

- (b) the definition of the 'valuation roll' and substituting therefor with the following new definition—

"valuation roll" means a roll prepared in accordance with this Act;

CLAUSE 12

THAT clause 12 of the Bill be amended in —

- (a) subclause (3), by inserting the words 'and the Council of Governors' immediately after the words 'National Land Commission'.
- (b) subclause (4) by inserting the words 'in consultation with the Council of Governors' immediately after the words 'The Cabinet Secretary may'.

CLAUSE 20

THAT clause 20 of the Bill be amended in —

- (a) subclause (2), by inserting the words 'and the Council of Governors' immediately after the words 'the Cabinet Secretary';
- (b) subclause (6), by deleting the words "further review before submission" and substituting therefor the word "transmit"

CLAUSE 30

THAT clause 30 of the Bill be amended by deleting —

- (a) subclause (3),
- (b) subclause (4),
- (c) sub clause (5); and
- (d) subclause (6)."

CLAUSE 32

THAT clause 32 of the Bill be amended -

- (a) in subclause (6) by inserting the words “for consideration” appearing immediately after the word 'tabling'.
- (b) by inserting the following new subclauses immediately after subclause (6) —

“(7) The County Assembly shall, by resolution approve or reject the draft valuation roll or draft supplementary valuation roll within sixty days of submission under subsection (6).

(8) Where the County Assembly fails to make a resolution within the period under subsection (7), the draft valuation roll or draft supplementary valuation roll shall be deemed to have been approved.”

CLAUSE 34

THAT clause 34 of the Bill be amended by deleting subclause (6) and substituting therefor the following new subclauses—

“(6) A valuer who receives an objection under subsection (5) shall review the objection and submit a response to the County Executive Committee Member within sixty days.

(6A) The County Executive Committee Member shall, upon receipt of the response of the valuer, constitute a County Valuation Board and submit a response to an objection to the County Valuation Board for determination in accordance with subsection (6B).

(6B) A County Valuation Board constituted under subsection (6A) shall hear and determine objections to the valuation roll or supplementary valuation roll or any other dispute that may arise from rates determination and enforcements of rates payment at the first instance, before submission of a dispute to the Tribunal.

(6C) A County Valuation Board established under subsection (6A) shall—

(c) hear and determine the objection; and

(d) communicate the decision of the Board in writing to the objector, the rateable owner, the County Executive Committee Member, and the valuer.

(6D) A person who is not satisfied with a decision under subsection 6C(b) may appeal the decision before the Tribunal.”

CLAUSE 56

THAT clause 56 of the Bill be amended in —

- (a) subclause (1) by deleting the word 'may', appearing immediately after the words "The Cabinet Secretary" and inserting therefor the words "shall, in consultation with the Council of Governors,".
- (b) subclause (2) by deleting the word 'may', appearing immediately after the words "the Cabinet Secretary" and inserting therefor the words "shall, in consultation with the Council of Governors,".

NEW CLAUSE 24A

THAT the Bill be amended by inserting the following new clauses immediately after clause 24 —

Establishment
of the Office
of the Chief
Government
Valuer.

24A. (1) There is established the office of the Chief Government Valuer who shall be recruited and appointed by the Public Service Commission through a competitive process.

(2) The Chief Government Valuer shall be the principal advisor to the National Government and County governments on all matters relating to valuation.

NEW CLAUSE 30A

THAT the Bill be amended by inserting the following new Clause immediately after clause 30—

Supplementary
Valuation
Roll.

30A. (1) Where the county government has reason to believe that a supplementary valuation roll needs to be prepared, the county government shall cause a supplementary valuation roll to be prepared where necessary.

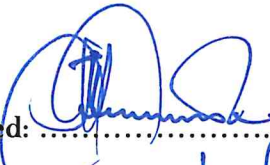
(2) The county government shall, in preparing a supplementary valuation roll, rely on data or information that was used in the preparation of the valuation roll to assign values to be adopted on the properties contained in a supplementary valuation roll.

(3) A supplementary valuation roll shall include only those alterations and additions to the valuation roll which are permitted by this section.

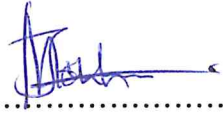
(4) The draft supplementary valuation roll shall take into account—

- (e) any rateable property omitted from valuation;
- (f) any new rateable property;
- (g) any rateable property which is subdivided or consolidated with other rateable property;
- (h) re-categorization of the rate on the


change of use of the rateable property;
any rateable property which, from any cause particular to such rateable property arising since the time of valuation has materially increased or decreased in value, and include such valuation in a supplementary valuation roll.

Signed: 
Date: 22/10/2024

Hon. Joash Nyamache Nyamoko, HSC, MP
Chairperson, Mediation Committee on
the National Rating Bill (N. A. Bill No. 34 of 2022)

Signed: 
Date: 22/10/2024

Sen. John Methu Muhia, MP
Vice-Chairperson, Mediation Committee
on the National Rating Bill (N. A. Bill
No. 55 of 2022)

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|  THE NATIONAL ASSEMBLY PAPERS LAID | |
| DATE: 05 NOV 2024 | |
| DAY: Tuesday | |
| TABLED BY: | Hon. Josses Helmenjit, MP Member, Mediation Committee |
| CLERK-AT THE-TABLE: | Moses Komale |

