

CHAPTER 134 - TENEMENT RATE

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CHAPTER 134
STATE TENEMENT RATE
AN EDICT TO ESTABLISH A RATING VALUATION UNIT IN THE STATE

[8 August 1989]

PART I—PRELIMINARY

1. This Edict may be cited as the Tenement Rate Edict. Citation.
2. In this Edict, unless the context otherwise requires:—

"Governor" means the Governor of the State;

"Current Replacement Cost" means adjustments concerned with age and obsolescence including planning and layout made to the Current Replacement Cost with a view to arriving at the value of the item of the tenement to the owner as it exists on the date of valuation;

"gross value" means the rent at which the tenement might reasonably be expected to let from year to year if:—

(a) the tenant undertook to pay all usual tenant rates and taxes; and

(b) the landlord undertook to bear the cost of the repairs and insurance and other expenses necessary to maintain the tenement in the state to command that rent;

"occupier" in relation to a tenement means the person in occupation of the whole or of any part of such tenement, but does not include a lodger;

"owner" in relation to a tenement includes the person for the time being receiving the rent of the tenement in connection with which the word is used whether on his own account or as an agent or trustee for any other person, or would receive the sum, if such tenement were let to a tenant and the holder of the tenement, direct from the State whether under lease, licence or otherwise;

"profit method" means the adjustment of the gross profit to net profit and applying a figure to the net profit to arrive at the rent to be paid to the landlord;

"rateable value" means the value at which a tenement is assessed in accordance with this Edict;

"State" means Gongola State of Nigeria;

"tenement" means land with buildings on it which is held or occupied as distinct or separate holding or tenancy or any wharf or pier, but does not include land with buildings.

PART II—ESTABLISHMENT OF RATING AND VALUATION UNIT

3. —(1) There is hereby established in the State a body to be known as the Rating and Valuation Unit, in this Edict referred to as "the Unit", which shall carry out assessment of all rateable properties in the State.

(2) The Unit shall have zonal offices in each of the viable Local Government Areas in the State.

4. —(1) The Unit shall consist of the following members:—

(a) the Rating Co-ordinator referred to in section 9; and

(b) such number of other staff of the Unit as may be required.

(2) The staff of the Unit:—

(a) shall be public officers in the State; and

(b) shall assist the Rating Co-ordinator in the performance of his functions under this Edict.

Functions of the Unit.

5.—(1) The Unit shall be responsible for:—

(a) the identification, survey and valuation of rateable properties in the State for the compilation of the valuation list;

(b) nomination or appointment and supervision of professional advisers for valuation of rateable properties in the State.

(2) The Unit may also do all such acts as may appear to it expedient for the purposes of implementing the functions specified in subsection (1).

6. The Unit may appoint committees of the Unit comprising members of the Unit or non-members as the Unit may think fit and may assign to such committees such functions relating to the by the Unit, functions of the Unit as the Unit may determine.

7.—(1) The Unit shall prescribe the procedure for its meetings

(2) The validity of any proceedings of the Unit shall be affected:—

(a) by any vacancy among its members; or

(b) by any defect in the appointment or qualification of any such members.

8.—(1) For the purposes of this Edict, each Local Government Rating Council in the State shall be the rating authority for its area of jurisdiction.

(2) The rating authority shall be the only body in its area of jurisdiction empowered to levy and collect rates under this Edict.

9.—(1) The Unit shall have an officer to be designated as "the Rating Co-ordinator" who shall be the Chief Appraiser of the State.

(2) The Rating Co-ordinator shall be appointed by the Governor and shall hold office for two years upon such terms and conditions as may be specified in his instrument of appointment.

(3) The Rating Co-ordinator:-

- (a) shall be both the professional and administrative head of the Unit; and
- (b) shall be responsible to the Director-General of the State Ministry of Works and Transport.

10.—(1) For the purposes of this Edict, the Rating Co-ordinator in consultation with the Director-General, Ministry of Works and Transport may appoint such other persons to be appraisers who shall be qualified Estate Surveyors and Valuers and registered by the Estate Surveyors and Valuers Registration Board of Nigeria.

(2) A person appointed as an appraiser under subsection (1) shall be subject to and under the control and supervision of the Rating Co-ordinator.

11. An appraiser may:-

- (a) require any person to give such information either orally or in writing as he may require which may affect the assessed value of a tenement so as to ascertain and assess the property;
- (b) request any person liable to pay rate upon a tenement to furnish him with any accounts, receipts for rent, rent books, or other documents required in connection with the valuation of a tenement;
- (c) on any day (except a non-working day) between the hours of eight o'clock in the morning and six o'clock in the evening, enter upon any tenement for the purpose of making a valuation thereof, and take such measurements and other particulars as he may consider necessary for the purpose;
- (d) ask the occupier of any tenement for his name and, where the occupier is not the owner, the name and address of the owner as well;
- (e) require the owner, occupier or agent of any tenement rented to make a declaration in writing as to the rent paid or payable in a year;
- (f) require the owner, occupier or agent of any tenement to inform him as to the boundaries of the tenement.

12. Any rating authority may:-

- (a) demand and collect tenement rates from owners or occupiers of tenements and buildings after due notice of demand has been sent to them;
- (b) request any person liable to pay rate upon tenements to furnish it with accounts, receipts for rents, rent books or other documents required in connection with the valuation of a tenement;
- (c) request the occupier, if he is not the owner, to furnish the name and address of the owner.

13. Where a tenement rate is payable in a Local Government Area, the Chairman of that Local Government Area shall determine the rate payable by all classes of tenements in its area of jurisdiction.

14. No appraiser, officer or member of any committee shall be liable for any omission done or omitted to be done in good faith while performing or in the purported performance of his duties under this Edict.

PART III—ASSESSMENT AND COLLECTION OF TENEMENT RATES

15. —(1) As soon as practicable after the appointment of the Rating Co-ordinator, the Co-ordinator shall cause the value of every tenement subject to rate in the State to be ascertained and assessed by any appraiser, and such assessment shall be known as the First General Assessment.

(2) Not less than one in every five years after the completion of the First General Assessment, the Rating Co-ordinator shall cause a new general assessment to be made in the manner provided under subsection (1) of every tenement subject to rate in the State.

16. As soon as a first or any subsequent general assessment shall have been completed, the appraiser shall make a list of the several tenements assessed and their respective valuation to be made and shall submit the list to the Rating Co-ordinator for signature subject to any alteration which may be made in the order of the Assessment Appeal Tribunal or a Magistrates' Court.

17. The Unit shall, after the preparation of the valuation list or an amendment to the list, give notice in the State Gazette or in any of the daily and weekly local newspapers in circulation or by radio place for of the fact that the valuation list has been prepared and as to the place at which it may be inspected; and shall make available the list for inspection at the place mentioned during ordinary office hours for thirty days from the date of the publication of such notice.

18. Subject to any alteration which may be made in an order of the Assessment Appeal Tribunal or a Magistrates' Court valuation list

(a) a valuation list prepared on general assessment shall, for the purposes of any rate to be levied in respect of the tenement assessed, be the valuation list for the year in which the list is published and for the next following year; and

(b) the valuation list in any other year as amended and in force at the commencement of the year shall, for the purposes of any rate to be levied in respect of the tenement assessed, be the valuation list.

19.—(1) In every year in which there is no general assessment, the Rating Co-ordinator shall, in the month of January, or as soon as may be convenient thereafter, cause a copy of the supplementary valuation list to be prepared with such additions or alterations as are necessary

to give effect to any new assessment or re-assessment of tenements:—

- (a) which, whether by building, destruction of building, or other alteration or structural condition, their assessed value has been increased or reduced; or
- (b) which being rateable or about to become rateable have not been assessed; or
- (c) in respect of which any person claiming to be the owner thereof shall have delivered to the rating authority a written request for re-assessment in respect of change of use or ownership on or before the first day of the preceding January to be ascertained and assessed.

(2) The valuation list when prepared shall be signed by the Rating Co-ordinator and subject to any alteration which may be made in the order of the Assessment Appeal Tribunal or a Magistrates' Court, shall be the valuation list for the year for which the then existing list has been made.

20. Notice of the preparation of the valuation list mentioned in section 16 and the place at which the list may be inspected shall be list. given in the manner as prescribed by section 17 and the list shall be open for inspection for the same period as a list of the first or subsequent general assessment.

21. The following tenements shall be exempted from assessment and rating:"

- (a) all land and buildings used exclusively for the purposes of public worship;
- (b) cemeteries and burial grounds;
- (c) charitable institutions certified by the State Commissioner for Finance or the State Commissioner for Youth, Sports and Social Development, to be non-profit making and educational institutions certified by the State Commissioner for Education to be non-profit making;
- (d) any statement specifically exempted by the Governor by notice in the State Gazette as authorised by the State Executive Council;
- (e) all palaces of recognised Emirs and Chiefs; and
- (f) all tenements whose annual values, in the opinion of an appraiser, is less than ₦ 300.00.

22.—(1) For the purposes of this Edict all properties in the State Basis of shall be valued by reference to the gross value.

(2) The rateable value shall be arrived at by deducting an amount from the gross value and such amount shall reflect the outgoings that shall be incurred to earn the gross value for:—

- (a) residential properties 10%;
- (b) commercial properties 12%; and
- (c) industrial properties 15%, as outgoings.

23.—(1) In assessing a tenement an appraiser shall, in determining the gross value, take cognisance of either the actual rent passing on the tenement or the rent of comparable tenements within the vicinity which have been properly analysed by him.

(2) Where it is apparent to an appraiser that either a tenement cannot be valued by reference to a direct rent by reason of the special nature of such property or due to the paucity of rental evidence for such tenement in the particular area, the appraiser shall decide to use the "Depreciated Replacement Cost" method or any other relevant method as appropriately described elsewhere in this Edict.

(3) Notwithstanding any State enactment, the appraiser shall take cognisance of either the open market rental value or the actual rent passing in determining the gross value of residential properties.

24.—(1) Before arriving at the Depreciated Replacement Cost Costacemem °f a tenement an appraiser shall:—

- (a) determine the Current Replacement Cost of the tenement; and
- (b) deduct an amount from the Current Replacement Cost to allow for age and obsolescence.

(2) The appraiser shall rely on his experience and judgement in determining the amount to be deducted.

(3) To arrive at the gross value the resultant Depreciated Replacement Cost shall be decapitalised and the figure arrived at shall be treated in the manner prescribed in subsection (2) of section 22 to arrive at the rateable value.

25. Properties which cannot be valued by comparative method because they are never let, shall be valued by either the Contractor's method embracing the Current Replacement Cost or the profit method.

26. For the purpose of ensuring uniformity of assessment as at the date of valuation the appraiser shall, in determining the rateable value of a tenement either by reference to annual rent or Current Replacement Cost, have regard to the level of rent prevailing in that locality for the particular type of tenement or of the building costs in the locality for the particular class of tenement.

27. Assessment in respect of tenement occupied by utility corporations, other than tenements used as dwelling houses, shall be by the Depreciated Capital Value (referred to as "Depreciation Replacement Cost") of such tenements.

28.—(1) In the case of any general assessment when the assessment of the tenements in any part of a Local Government Area is to be made has been completed, the Rating Co-ordinator may, if he thinks fit, and shall, if so directed by the Governor, make out, sign and deliver the list

required by section 12 in respect of that of the Local Government Area without awaiting the completion of the assessment of the whole place.

(2) The list shall, in relation to the portion of the Local Government Area to which it refers, have the same effect and shall be dealt with in the same manner as a list submitted by the Unit under section 16.

29. —(1) A rate upon tenement, other than tenements referred to in section 27, to be assessed at their Effective Capital Value shall be at a uniform rate per naira of the assessed value provided that such uniformity shall be restricted to the particular Local Government Area in the State.

(2) A rate upon tenement required by section 27 to be assessed at its Effective Capital Value shall be determined by first applying an amount represented by 8 per cent as the Annual Value.

(3) The amount arrived at shall represent the rateable value after deductions as determined in section 22.

(4) The uniform rate per naira referred to in subsection (1) shall be applied to the rateable value as determined.

30. —(1) For the purposes of assessment of rateable properties in the State, the following areas shall, for the time being, be the assessment areas in the State:—

(a) Yola;

(b) Jimeta;

(c) Numan;

(d) Mubi;

(e) Jalingo;

(f) Wukari.

(2) The Governor may, from time to time, by order declare any other areas of the State to be assessment areas.

Calculation of rates.

PART IV—OBJECTIONS TO VALUATION LIST

31.—(1) Any owner or occupier of a tenement who is dissatisfied with the valuation of such tenement as appearing in the valuation list may lodge with the Rating Co-ordinator a notice of objection except that such notice shall be lodged within the period during which the valuation list is open for public inspection as provided in either section 17 or 20.

(2) The notice of objection shall state fully the grounds on which the objection is made, and the objector shall cause a copy of the objection to be served on the relevant Local Government Council in whose area of jurisdiction the tenement is situated.

(3) The person lodging the objection shall deposit with the Local Government Council a sum

equal to 50% of the amount of rate due pending the determination of the objection and such sum shall be credited to the rate payer's account and shall be used to off-set part of the whole of the rate depending on the outcome of the objection.

32. If a notice of objection with the prescribed sum is lodged within the prescribed period, the Rating Co-ordinator shall give notice to the objector of the date on, and the place at, which the objection shall be heard by the Assessment Appeal Tribunal.

PART V—APPEALS

33. The Governor may establish Assessment Appeal Tribunals which shall have jurisdiction to hear and determine appeals in respect of objection to any valuation list in a Local Government Area.

34.—(1) An Assessment Appeal Tribunal shall consist of three members appointed by the Governor..

(2) The Governor shall appoint one of the members of the Assessment Appeal Tribunal as its Chairman.

(3) Members of the Assessment Appeal Tribunal shall hold office for such period as may be determined by the Governor.

(4) Members of the Assessment Appeal Tribunal shall be paid such allowances as the Governor may, from time to time, determine.

35. The owner or occupier of a tenement aggrieved by the Appeals, valuation list may appeal against the valuation or the operative date to the Assessment Appeal Tribunal.

36. The time allowed for an appeal shall be thirty days after the decision of an Assessment Appeal Tribunal.

37. The onus of proving that a valuation of a tenement is excessive shall lie on the owner or occupier aggrieved by the valuation.

38. An Assessment Appeal Tribunal may confirm, reduce, increase or alter or annul the valuation.

39. An Assessment Appeal Tribunal may:—

(a) by summons, require the attendance of any person and may examine him for the purpose of an appeal before it and may require answers to any questions which it may think fit to put concerning the matter before it;

(b) require and enforce the production of all books, papers and documents which it may consider necessary;

(c) administer oaths and affirmations.

40. The Rating Co-ordinator may, in the case of any appeal against a valuation of a tenement,

be represented by an appraiser or any other person appointed by him in writing or a Legal Practitioner.

41. —(1) An appeal against the decision of an Assessment Appeal Tribunal shall lie to a Senior Magistrates' Court:—

- (a) at the instance of an appellant other than the rating authority;
- (b) at the instance of the rating authority where the decision of the Assessment Appeal Tribunal is in respect of a matter in which the rating authority claims that the correct valuation was in the sum of ₦600 or more.

(2) The cost of an appeal shall be at the discretion of the Magistrates' Court.

42. An appeal shall not lie unless:—

- (a) notice is given in the prescribed manner to the rating authority or to the person assessed;
- (b) the fee prescribed is paid;
- (c) in the case of a person aggrieved with his tenement rating at least one-half of the assessed rate being disputed is deposited with the rating authority.

PART VI—DEMAND AND COLLECTION OF RATES

43. —(1) The Rating Co-ordinator or his representative shall give notice of every rate demand and of the day on which such rate shall become due and payable.

(2) A notice under subsection (1) may be given by:—

- (a) affixing a copy of the notice in a public or conspicuous place within the area of jurisdiction of the rating authority; or
- (b) publishing a copy of the notice in one or more local newspapers circulating in the area of jurisdiction of the rating authority.

44. —(1) Where a notice has been given of the demand of a rate that has been due under section 43, a person liable to pay rate shall pay the amount of rate due to the rating authority or its agents, authorised to collect the amount of rate when paid.

(2) Any person liable to pay rate shall pay the amount of rate due not later than the date specified in the notice.

(3) Where any rate remains unpaid for three months from the date it becomes due and payable, a surcharge calculated from the day following the expiration of the three months shall be charged and recovered by the rating authority at the rate of 10 per cent per annum for each month for which the rate remains unpaid.

45.—(1) The owner of a tenement shall, in the case of rate upon tenements, be primarily liable to pay the rate on the date before the rate becomes due and payable.

(2) If on the expiration of three months from the date on which a rate becomes due and

payable and the owner liable has failed to pay the rate, any person who at any time in the year of assessment in respect of which rate is due.:-

(a) becomes the subsequent owner of the tenement, shall be liable to pay the rate for that year;

(b) is or was the occupier of the tenement, shall be liable for the rate for that year up to the amount of the rent due by him but not paid;

(c) as agent or otherwise receives the rent in respect of the tenement of the rent paid or payable to him for that year in respect of the tenement subject to deduction by the agent of a commission due to him for collection thereof.

(3) The person referred to in subsection (2) shall be liable for the rates jointly and severally.

(4) No legal proceedings shall be instituted against any person referred to in subsection (2) unless a demand in writing has been served upon him requiring him to pay the amount stated therein and has failed or refused to pay the amount.

(5) Any person referred to in subsection (2) who has paid any rate may recover the amount paid from the owner liable.

(6) Every rate made and levied upon a tenement shall, except in the case of tenements vested in the State or a Local Government, be a charge against the tenement rated.

46. —(1) Any rating authority may appoint rate collectors.

(2) A person shall not be appointed a rate collector without his consent except he is an employee of the rating authority.

47. —(1) A rate collector shall.:-

(a) collect and receive rates including surcharges, from a person collector, liable for the payment of rates in the area in which the rate collector has been posted;

(b) make returns and furnish information on the rates including surcharges which he is required to collect;

(c) pay all the amount of rates including surcharges collected to the rating authority;

(d) comply with the directions of a rating authority in the performance of his duties under this Edict.

48. —(1) A claim for the amount of rate payable under this Edict shall be prior to all other claims against the person liable to pay the rate, except claims by the State or Federal Government.

49. —(1) Where a person fails to pay a rate for which he is liable by the date on which it is payable, the rating authority may take the rate defaulter to a Mobile Revenue Court which, for the time being, has been retained as a standing tribunal for this purpose, to obtain judgment against the rate defaulter.

- (2) The judgment obtained under subsection (1) shall:—
- (a) order the rate payer to pay the rate within 21 days from the date the judgment was given;
 - (b) empower the relevant Local Government Council to dis-train any property belonging to the rate payer in satisfaction of the claim if the rate payer still refuses to comply with the judgment of the Court obtained;
 - (c) empower the relevant Local Government Council to recover the rate due and payable as a civil debt together with any surcharge due and costs.
- (3) The Mobile Revenue Court shall:—
- (a) have the jurisdiction of a Magistrates' Court;
 - (b) be presided over by a Legal Practitioner of not less than five years experience.
- (4) An appeal from a Mobile Revenue Court shall go to a Chief Magistrates' Court.

PART VII—GENERAL

50. —(1) Any person who:—

- (a) fails to comply with section 11; or
- (b) without reasonable excuse makes an incorrect return by omitting or understating an income of which he is required to make under this Edict; or
- (c) refuses or neglects to comply with any of the provisions of this Edict when required to do so by a rating authority or an appraiser; or
- (d) prevents, hinders or obstructs any employee or agent of a rating authority in the course of his lawful duties from entering, inspecting or measuring any tenement, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand naira or to imprisonment for a term not exceeding three months.

51. Any person who having been served with summons by an Assessment Appeal Tribunal under section 39:—

- (a) refuses or omits without sufficient cause to attend at the time and place mentioned in the summons; or
 - (b) refuses to take oath or affirmation; or
 - (c) refuses without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by the Assessment Appeal Tribunal; or
 - (d) refuses or omits, without sufficient cause to produce any documents in his possession or under his control which are mentioned in the summons,
- shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding

one thousand naira.

52. Any person who without lawful justification or excuse:—

(a) incites any person to refuse to pay any rate by him under person to re—this Edict on or before the day on which it is payable; or

(b) incites or assists any person to misrepresent in any way his rateable capacity, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand naira or to imprisonment for a term not exceeding three months.

53. Any person who:—

(a) not being authorised under this Edict by the Rating Co—ordinator or by the rating authority or not being a rate collector, collects or attempts to collect any rate imposed under this Edict; or collects or attempts to collect any rate, other than the rate which may be imposed under this Edict or authorised by any other enactment,

(b) shall be guilty of an offence and shall be liable on summary conviction to a term of imprisonment not exceeding one year.

54. Any rate collector who:—

(a) fails to deposit with the rating authority any sum of money collected by him as rates; or

(b) demands from any person an amount in excess of the duly assessed rates; or

(c) falsifies receipts either by printing illegal receipts with intention to cheat the rating authority,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding three years without the option of a fine.

55. Any person who without lawful justification or excuse refuses to pay rate payable by him on a tenement under this Edict on or before the date on which it is payable, shall be liable to a fine not exceeding one thousand naira or to a term of imprisonment not exceeding six months in default of the payment of the fine.

56.—(1) The Governor may make regulations for the purpose of giving effect to this Edict.

(2) Without prejudice to the generality of subsection (1), regula—tions made thereunder may provide for:—

(a) the procedure to be followed by the Assessment Appeal Tribunals;

(b) the procedure to be followed by the Mobile Revenue Court when hearing cases of rate defaulters;

(c) the form of valuation lists;

(d) the fees to be paid in respect of appeals; and

(e) the remuneration of members of Assessment Appeal Tribunals.

57. Part XIII of the Local Government Edict No. 3 of 1977 is hereby repealed.
