

SOUTH AFRICAN CONSTITUTIONAL AND LEGAL REQUIREMENTS FOR MUNICIPAL RATES

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SECTION 153 OF THE CONSTITUTION - DEVELOPMENTAL DUTIES OF MUNICIPALITIES:

A municipality must:

- (a) Structure and manage its administration and budgeting and planning processes to give PRIORITY TO THE BASIC NEEDS OF THE COMMUNITY
- (b) Participate in national and provincial development programmes

CRITICAL IMPLICATION FOR RATES INCREASES:

- Municipalities are constitutionally required to prioritize basic needs
- Excessive rates increases that make services unaffordable violate Section 153
- Rates increases must be structured to ensure affordability for basic services
- Municipal budgeting must reflect priority for basic needs, not revenue maximization

SECTION 27 OF THE CONSTITUTION - ACCESS TO SERVICES:

- Everyone has the right to have access to healthcare services
- Everyone has the right to sufficient food and water
- Everyone has the right to social security
- The state must take reasonable measures to achieve progressive realization

MUNICIPAL PROPERTY RATES ACT (MPRA) NO. 6 OF 2004 - SECTION 16:

- Municipalities must ensure rates are not "unreasonably prejudicial" to property owners
- Rates must be fair and equitable
- Rates must be applied in accordance with the Act's provisions
- Public participation is required in rates policy development

NATIONAL TREASURY GUIDELINES:

- Property rates should increase in line with inflation (CPI)

- Increases above inflation are considered "above-inflation hikes"
- Municipalities violating this guideline are acting contrary to National Treasury guidance
- Excessive rates undermine national economic policies

MUNICIPAL FINANCE MANAGEMENT ACT (MFMA) NO. 56 OF 2003:

- Municipalities must manage finances sustainably
- Treasury regulations require sound financial management
- Rates policies must be tabled with annual budgets
- Compliance with MFMA is mandatory for all municipalities

LEGAL STANDARD FOR AFFORDABILITY:

- Rates must be affordable for the community
- Rates must not make basic services inaccessible
- Rates must reflect fair value and not be punitive
- Rates must be transparent and justified

ENFORCEMENT MECHANISMS:

1. Auditor General - Reports on compliance but does not enforce
2. National Treasury - Can issue guidelines but enforcement is limited
3. Provincial Treasury - Can monitor compliance
4. Municipal Council - Responsible for adopting compliant policies
5. Courts - Can intervene if constitutional rights are violated
6. Citizens/Ratepayers - Can challenge rates through legal action

CRITICAL GAP:

Despite clear constitutional and legal requirements, enforcement of rates compliance is weak. The Auditor General can give a "clean audit" while reporting non-compliance with Treasury guidelines. This creates a situation where municipalities can violate guidelines with limited consequences.