

CHAPTER 39

ENUGU STATE AGRICULTURAL DEVELOPMENT PROJECT LAW

Arrangement of sections

PART I — PRELIMINARY

Sections

1. Short title
2. Interpretation.

PART II — ESTABLISHMENT, FUNCTIONS, POWERS OF THE PROJECT

3. Establishment of the project.
4. Objectives of the project.
5. Functions of the project.
6. Establishment and Composition of the Executive Committee.
7. Functions of the Executive Committee.
8. Constitution of the Executive Committee.
9. Power to give directives.
10. Sub-committees of Executive Committee.
11. Management Unit.
12. Establishment and Composition of Zonal Development Committee.

PART III — STAFF OF THE PROJECT

13. Appointment of Project Manager.
14. Appointment of Heads of Departments/Divisions/Sub-programmes.
15. Appointment of Staff.
16. Staff on Secondment, Transfer, etc.
17. Power to make regulations with respect to Appointment of Staff.
18. Power to grant retiring benefits, etc.
19. Power to make Rules with regard to Retirement Benefits.
20. Performance of Functions.

PART IV — FINANCIAL PROVISIONS

21. Funds and Resources.
22. Application of Monies received.
23. Power to Borrow Money.
24. Guarantee by Government.
25. Power of Invest.
26. Accounts to be kept by the Project.
27. Annual Reports and Estimates.

PART V.— POWERS IN RELATION TO LAND

28. Entry on land.
29. Construction of Installations, etc.
30. Acquisition of Land.

PART VI. — MISCELLANEOUS

31. Legal Proceedings.
32. Common Seal.
33. Contracts not requiring issued.
34. Proof of Documents issued.
35. Power to Contract.
36. Meetings.

SCHEDULE

CHAPTER 39

ENUGU STATE AGRICULTURAL DEVELOPMENT PROJECT
LAW

ENSL 1992/
No. 1

A Law to make provisions for the agricultural development of the State and for related purposes.

PART I. — PRELIMINARY

1. This Law may be cited as the Enugu State Agricultural Development Project Law.

Short title.

2. In this Law —

Interpretation.

“Chairman” means Chairman of the Executive Committee;

“Commissioner” means member of the State Executive Council charged with responsibility for Agriculture and Agricultural Development Project Matters;

“Executive Committee” means Enugu State Agricultural Development Project Executive Committee;

“financial year” means 1st January to 31st December of any year;

“Government” means Government of the State;

“Governor” means Governor of the State;

“Management Unit” means Agricultural Development Project Management Unit;

“Member” means the member of Executive Committee and includes the Chairman

“Project” means Enugu State Agricultural Development Project;

“State” means Enugu State of Nigeria.

PART II.— ESTABLISHMENT, FUNCTIONS, POWERS OF
THE PROJECT.

3. (1) There is hereby established for the State a body to be known as the Enugu State Agricultural Development Project.

Establishment
of the Project.

(2) The Project shall be a body with perpetual succession and a common seal and with power to sue and be sued in its corporate name, and the exercise of its functions to acquire, hold and dispose of movable and immovable property.

Objectives of the Project.

4. The objectives of the Project shall be —
- (a) to support increased agricultural production of the State; and
 - (b) to raise the living standards of the rural population.

Functions of the Project.

5. The functions of the Project shall be —
- (a) to prepare and deliver the necessary improved production packages to the farmers and fishermen;
 - (b) to multiply tested high yielding seed varieties and distribute same to farmers and fishermen;
 - (c) to engage in on-farm adaptive research;
 - (d) to engage in appropriate training for Extension Staff, farmers and fishermen;
 - (e) to distribute such agro-inputs like fertilizer;
 - (f) to construct access roads, potable water and repair such damaged facilities; and
 - (g) to engage in any other activity that would aid the development of agriculture in the State.

Establishment and Composition of the Executive Committee.

6. There is hereby established a body to be known as the Agricultural Development Project Executive Committee which shall consist of —
- (a) the Governor who shall be the Chairman;
 - (b) the Commissioner for Agriculture, Commerce and Industry who shall be the Deputy Chairman;
 - (c) the Commissioner for Finance and Economic Planning;
 - (d) the Commissioner for Works and Transport;
 - (e) the Secretary to the State Government of his representative;
 - (f) the Director of the Federal Department of Agriculture of his representative;
 - (g) the Head of the Federal Agricultural Co-ordinating Unit or his representative;
 - (h) the General Manager, the Anambra/Imo River Basin Development Authority or his representative;
 - (i) the Director-General of the Ministry of Agriculture

and Information;

- (j) the Director-General, Local Government Affairs; and
- (k) the Project Manager of the Project who shall also be Secretary.

7. It shall be the duty of the Executive Committee —

Functions of the Executive Committee.

- (a) to formulate financial and administrative policy and co-ordinate other matters relating to the project;
- (b) to approve the annual budget, work plan and procurement plan of the project;
- (c) to ensure adequate arrangement for funding the Project;
- (d) to approve the appointments, promotion and discipline of senior staff;
- (e) to approve the award of all contracts estimated to cost an amount above US \$25,000 or equivalent in naira:

Provided that all such contracts estimated to be an amount above US \$25,000 or equivalent to be awarded in international competitive bidding shall be reviewed and recommended by Enugu State Tenders Committee.

- (f) to authorize the establishment the Project Management unit of an internal tender committee to be responsible for the review and approval of all contracts estimated to cost an amount equivalent to US \$25,000 or less, being contracts awarded on the basis of local or international competitive bidding.

8. The constitution and proceedings of the Executive Committee shall be regulated in accordance with the Schedule hereto.

Constitution of Executive Committee.

9. The Governor may give to the Executive Committee directions of a general or specific character as to the exercise and performance of its functions, and the Executive Committee shall give effect to such directions.

Power to give directives.

Such
committees of
Executive
committee

10. (1) the Agricultural Development Executive Committee shall have two sub-committees, namely, an agricultural services sub-committee to be responsible for co-ordinating services to farmers and an infrastructure development sub-committee to be responsible for co-ordinating infrastructure programmes.

(2) The Chairman of the agricultural sub-committee shall be the Director-General Ministry of Agriculture and Natural Resources and the other members of the sub-committee shall include the Director PRSD (MANR); the Director, Department of Agriculture and Engineering Services MANR; the Project Manager ADP; the Chief Technical Officer ADP; the Chief Extension Officer ADP and the Manager AISC.

The Infrastructure development sub-committee shall also be chaired by the Director-General MANR and its other members shall include the Director PRSD (MANR), the ADP Project Manager, the Head of Community Development Division, Ministry of Social Development, Youth and Sports, the Head of Civil Engineering, Ministry of Works and Transport and the Chief Engineer ADP.

Management
unit

11. (1) There is hereby established a unit in the Project to be known as the Agricultural Development Project Management Unit which shall consist of —

- (a) the Project Manager who shall be the Chairman;
- (b) the Chief Technical;
- (c) the Chief Extension Officer;
- (d) the Chief Engineer;
- (e) the Chief Commercial Officer;
- (f) the Financial Controller;
- (g) the Chief Planning, Monitoring and Evaluation Officer;
- (h) the Chief Manpower Development and Training Officer;
- (i) the Zonal Managers; and
- (j) the Chief Administrative Officer, who shall also be the Secretary.

(2) The Management Unit shall be primarily concerned with the execution of the Project which shall include the following —

- (a) the implementation of Agricultural Development Project, and
- (b) the preparation of work programmes and annual budgets for approval by the Executive Committee.

(3) There shall also be established an Agricultural Development Project Management Units Tenders Committee to be chaired by the Project Manager Agricultural Development Project and shall include the Financial Controller Agricultural Development Project, the Chief Engineer Agricultural Development Project, the head of the Technical Services Agricultural Development Project, the head of the Extension Services Agricultural Development Project and the Chief Administrative Officer Agricultural Development Project, who shall be the Secretary.

(4) The PMU shall, on the recommendations of the Internal Tender Committee, approve all contracts estimated to cost an amount equivalent US \$25,000 or less, being awarded on the basis of local or international competitive bidding: provided that no contracts estimated to cost more than \$12,500 or naira equivalent shall be awarded without the clearance of the Commissioner of Agriculture and Information.

(5) The Project Manager may approve contracts or expenditure costing US \$5,000 or equivalent in naira provided that the laid down procedures are followed.

12. (1) There shall be established for the Project Zonal Development Committees of the Management Unit which shall provide specialized advice and assistance to the Management Unit including assistance in the promotion of farmers participation in the formulation of development objectives.

Establishment and
Composition of
Zonal Development
Committee.

(2) Each Zonal Development Committee shall include the following as members:—

- (a) Zonal Officers from the Technical, Commercial and Engineering units of the Project;

- (b) Local Government Chairmen or their representatives within the zones;
- (c) Representatives of farmers in the particular zone with one farmer from each Local Government within the zone;

(3) Each Zonal Development Committee shall meet at least once every quarter with the Project Manager as Chairman, and in his absence, the officer next in rank to the Project Manager shall preside as Chairman of the meeting.

(4) The Project Zonal Development Committee shall have the Zonal Manager as Secretary.

PART III.— STAFF OF THE PROJECT

13. (1) The Military Governor shall appoint a fit and proper person as the Project Manager after clearance by the Federal Agricultural Co-ordinating Unit and the World Bank.

(2) The Project Manager shall be the Chief Executive of the Project and shall be in charge of the day to day running of the Project. He shall attend the meetings of the Executive Committee in accordance with the provisions of this Law.

14. The Executive Committee shall appoint a suitable person as head of Departments/Divisions or Sub-programmes of the Project on such terms and conditions as the Executive Committee may deem fit, after clearance by the Federal Agricultural Coordinating Unit and the World Bank.

15. (1) Subject to the provisions of this section the Management Unit shall recommend to the Executive Committee such persons as the Project may consider necessary to be appointed, promoted or disciplined and the Management Unit shall also recommend the conditions of service including their salaries and emoluments.

(2) Notwithstanding subsection (1) above the Management Unit shall be charged with the responsibility to appoint, promote and exercise disciplinary control over the officers of the Project on Grade Levels 01-07.

16. The Project may employ an officer of the Public Service of the State or in the Public Service of any other State, Local Government of the Federal Government of Nigeria on secondment, transfer, posting, attachment or on contract, with the agreement of the officer concerned in accordance with the procedure applicable to secondment, transfer, posting, attachment or contract.

Staff on
Secondment,
transfer, etc

17. The Project may with the approval of the Governor make regulations with respect to the appointment, promotion, transfer, posting, termination and dismissal of, and exercise of disciplinary action over its employees, and without prejudice to the foregoing provision, also make regulations on the following matters —

Power to make
regulations with
respect to
appointment of
Staff

- (a) the qualifications required for any appointment;
- (b) the method of appointment (including probation and confirmation period);
- (c) the form of any agreement to be entered into between the project and its employees;
- (d) the terms and conditions of service of its employees;
- (e) the procedure and requirements for promotion;
- (f) the maintenance of discipline (including dismissal and termination of appointment);
- (g) the transfer of employees between the Project and the Government, the Government of any other State, Local Government of the State or the Federal Government of Nigeria, or any other statutory body; and
- (h) such matters relating to departmental procedure, duties and responsibilities of employees as the Project considers will be best provided for by regulations.

18. The Project shall, subject to the provisions in the Staff Regulations to be approved by the Governor, grant pensions, gratuities and other retiring benefits to its officers and employees and may require such officers and employees to contribute to any pension contributory scheme to be set up by the Project.

Power to grant
retiring benefits,
etc.

19. The Project may, with the approval of the Governor make regulations with respect to its employees for the following —

Power to make
Rules with regard
to Retirement
Benefit.

- (a) the pensions, gratuities and retiring benefits to be granted to pensionable employees of the Project and their dependants;
- (b) the gratuities and retiring benefits to be granted to non-pensionable employees of the Project and their dependants;
- (c) all matters ancillary to the matters mentioned in paragraph (a) and (b) of this section

Performance of Functions.

20. The Project may perform any of its functions through or by any of its officers duly authorized by the Project in that behalf.

PART IV.—FINANCIAL PROVISIONS

Funds and Resources of the Project.

21. The funds of the Project shall consist of —

- (a) such monies as may from time to time be granted by way of loan to the Project by the Government; World Bank and the International Fund for Agricultural Development;
- (b) such monies as may from time to time be granted by way of loan or grant to the Project by the Federal Government of Nigeria;
- (c) such monies as may from time to time be granted by way of loan to the Project by any Local Government of the State, Statutory Corporation, Agency, other International Organizations and any private foundation or any person whatsoever or such other funds from whatever source accruing;
- (d) such sums as may be collected or received by the Project from the Government for the performance of its functions and duties; and
- (e) all such other sums payable to or property vested in the Project under this law or by virtue of any other law.

Application of Monies received.

22. (1) All the monies received by the Project shall be credited to the funds of the Project.

(2) The Project may apply funds at its disposal to its own expenses including the remuneration and expenses of the members of the various committees in respect of their duties as members and payment of salaries, allowances, pensions, gratuities and retiring benefits of its officers.

(3) The Project may incur expenditure necessary for or incidental to the carrying out of any of its functions and duties under this Law.

(4) The Project shall apply its funds in accordance with the provisions of this Law and under such terms and conditions upon which such monies may have been obtained, or upon such conditions as may be attached to its appropriation.

23. (1) The Project may with the prior written approval of the Governor borrow such sums of money as are required to meet its obligations or in the discharge of any of its functions and may with approval mortgage or otherwise deal with any of its assets for the purpose of securing any money borrowed by the Project.

Power to Borrow money.

(2) The Project may with the approval of the Governor enter into a loan agreement with the World Bank and International Fund for Agricultural Development for the purpose of funding the project for the purpose of funding the project for the performance of its functions, provided the Federal Government of Nigeria shall consent to guarantee such loan.

(3) There shall be included in any written approval to borrow under subsections (1) and (2) above a condition that such money shall be utilized for a specific purpose or purposes.

24. (1) The Government may guarantee in such manner and under such conditions as it may think fit the payment of the principal and interest of any money borrowed by the Project under section 23(1).

Guarantee by Government.

(2) The money required to make good such a guarantee shall be charged on and issued out of the Consolidated Revenue Fund of the State and shall be a statutory expenditure.

Power to Invest.

25. The Project may from time to time with the approval of the Governor invest monies standing to its credit and not required for the purposes of its functions for the time being, in securities approved either generally or specifically by the Executive Committee and may from time to time vary or sell such investments.

Accounts to be kept by Project.

26. (1) The Project shall keep proper accounts of its transactions including an income and expenditure account and a balance sheet to be submitted on a form prescribed by the Ministry of Finance and Economic Planning.

(2) The accounts of the Project for each year shall be audited within ninety days of the end of each financial year or such longer period as the Governor may in any particular case direct, and shall be the subject of a report by the auditor.

(3) The annual statement of accounts shall be audited by an independent and external auditor acceptable to the World Bank, the Federal Government of Nigeria and the Executive Committee.

Annual Reports and Estimate.

27. Not later than 6 months after the end of each financial year the Project shall forward to the Governor through the Commissioner for Agriculture, a full report on the exercise and performance of its function during the preceding year together with a certified copy of its audited accounts.

Entry on Land.

28. (1) No sections of Part V shall be construed to oust or over-ride the provisions of the Land Use Act or any requirements for the acquisition of lands under the relevant laws of Enugu State.

(2) Whenever it appears to the Project that any land in the State is to be needed for the purposes of carrying out its functions and objectives as set out in this Law, the Project shall give seven days prior notice to the owner or occupier of such land of its intention to enter the land. At the expiration of the notice the Project may, through its officers or agents and with all necessary workmen enter upon any such land and —

(a) survey the land;

- (b) dig or bore under the sub-soil;
- (c) do all other acts necessary to ascertain whether the land is suitable for such purpose;
- (d) clear, mark and set out the boundaries of such land.

(3) The officers, agents and workmen may remain on any such land for such reasonable time as may be necessary to ascertain if the land is suitable for the purpose.

(4) The Project shall where it requires to enter any building or any enclosed courtyard or garden attached to a dwelling house for the purpose of carrying out its functions and objectives give the owner or occupier of the said building, enclosed courtyard or garden, 14 (fourteen) days prior notice in writing of its intention to enter.

(5) If after 14 (fourteen) days of service of such notice, the owner or occupier of the building, courtyard or garden fails to lodge an objection with the Project in writing, the Project may proceed with the entry.

29. (1) The Project may subject to subsection (2) below construct installations on any land entered upon by the Project and may maintain, examine, repair, alter or remove any installation belonging to the Project.

Construction of
Installation, etc.

(2) The project may also attach any fixture to any building on the said land and may remove all trees and underwood which may interfere with the construction or proper working of any of the installations.

(3) The Project shall serve on the owner or occupier of such land or building a written notice giving a description of nature of the installation, line and fixture and the manner in which the said installation line or fixture is intended to be constructed or attached.

(4) If after 30 (thirty) days of such service the owner or occupier fails to lodge an objection with the Project in writing concerning the installation, line or fixture specified in the notice, the Project may proceed with the installation, line or fixture.

(5) If the owner or occupier of any land or building across or which an installation line or fixture has been constructed or attached required the position of such installation, line or fixture to be altered the Project may alter the position subject to such conditions as the Project may deem fit.

(6) Any installation, line or fixture placed across, over or under any road shall be placed so as not to interfere with the passage along such road and the project shall make good any road opened or broken upon such land by any road of its officers agents or workmen.

30. (1) Whenever there is a need for an acquisition by the Project of any land required for the purposes of carrying out its functions and objectives as set in this Law the State Commissioner for Lands and Survey or any other person authorized in that behalf may deem fit, declare that the land is required for the services of the Project.

(2) Upon such declaration being made, the land to which it relates shall be deemed to be required for public purposes of the State and the Project shall accordingly place its request before the Commissioner responsible for land matters who will cause the necessary acquisition processes to be in motion.

PART VI.—MISCELLANEOUS

31. (1) In any suit by or against the Project the Project may be represented in Court at any stage of the proceeding by —

- (a) a law officer;
- (b) a legal practitioner retained by the Project; or
- (c) an officer of the Project duly authorized in that behalf by the Project Manager.

(2) No suit shall be commenced against the Project or against any member, officer or employee of the Project until at least one month after the service on the Project member, officer or employee as the case may be, of a written notice by or on behalf of the intending plaintiff of intention to commence the suit stating —

Acquisition of
land.

Legal
Proceedings.

- (a) the cause of action;
- (b) the particulars of the claim;
- (c) the name and place of abode of the intending plaintiff; and
- (d) the relief claimed.

(3) The notice referred to in subsection (2) above and any summons, notice or other documents required or authorized to be served on the Project or on a member, officer or employee of the Project, except where there is a express provision to the contrary, may be served —

- (a) on the Project by delivering it to the Project Manager, or by sending it by registered post addressed to the Project Manager at its head office in Enugu.
- (b) on a member, officer or employee, by delivering it personally to the member, officer or employee as the case may be.

(4) In any suit against the Project to execution, attachment or process shall be issued against the Project, but any sum of money which may be awarded against the Project by any Court where notice of appeal has not been given by the Project in respect of any judgment, decision or order of the Court be paid by the Project from the funds of the Project.

(5) In this section "suit" includes any action or any civil proceedings commenced by a writ of summons or by such other manner as may be prescribed by rule of Court, but does not include criminal proceedings.

32. The affixing of the common seal of the Project shall be authenticated by the signature of the Chairman of the Executive Committee or such other member authorized in that behalf by the Executive Committee for that purpose and the signature of an officer of the Project authorized by the Executive Committee to act in that behalf for the purpose.

Common Seal.

33. Any Contract or Instrument which if entered into or executed by a person not being body corporate, would not require to be under seal, may be entered or executed on behalf of the Project by the person authorized in that behalf for the purpose.

Contracts not
requiring Seal.

Proof of Documents issued.

34. Any document purporting to be a document duly executed or under the common seal of the Project shall be received in evidence and shall unless the contrary is proved, be deemed to be so executed or issued.

Power to contract.

35. The Project may subject to the provisions of this Law enter into such contracts as may be necessary or expedient for the carrying out of its functions under this Law.

Meetings.

36. The meetings and proceedings of the Executive Committee shall be regulated in accordance with the provisions of the Schedule to this Law.

SCHEDULE

FURTHER PROVISIONS APPLICABLE TO THE EXECUTIVE COMMITTEE

(Section 8)

Meetings of the Committee.

1. (1) The Chairman shall preside at all meetings of the Executive Committee in which he is present.

(2) If at any meeting of the Executive Committee the Chairman is absent or if the office of the Chairman is vacant, the Deputy Chairman shall preside at the meeting and shall have all the powers of the Chairman for that meeting.

Periodicity of meetings, etc.

2. (1) The Executive Committee shall hold meetings as may be necessary for the performance of its functions at a place and time appointed by the Chairman and shall hold at least four meetings in each calendar year.

(2) Every question shall be decided by a majority of votes of the members present at the meeting and voting on that question. The Chairman or other member presiding shall have an original vote and in the event of a tie, a casting vote.

(3) Any three members of the Executive Committee may, by notice in writing, signed by them request the Chairman to summon a special meeting of the Executive Committee for the purpose that shall be set out in such notice, and the Chairman shall thereupon summon a special meeting.

3. Where the Executive Committee desires to obtain the advice of any person on any matter, the Chairman may co-opt such person to be a member at such meeting and such person shall when so co-opted, have all the rights and privileges of a member, but he shall not be entitled to vote upon any question.

Co-opting of members.

4. A quorum at a meeting of the Executive Committee, shall be two-thirds of the number of members. However, that fraction thereof shall be deemed to be a full number.

Quorum.

5. Subject to the provisions of this Law, the Executive Committee may regulate its own proceedings and may make a Standing Order for that purpose.

Standing Order.

6. No act or other proceedings of the Executive Committee shall be invalidated by reason only that —

Validity of Proceedings

- (a) there is some defect in the appointment of a member; or
- (b) there is a vacancy amongst its members.