

CHAPTER 40

ENUGU STATE AGRICULTURAL LOANS SCHEME LAW

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CHAPTER 40

ENUGU STATE AGRICULTURAL LOANS SCHEME LAW

A Law to make provisions for the establishment and management of a scheme for agricultural loans.

ENSL 1998 /
No. 1

[27th August 1991]

1. This Law may be cited as the Enugu State Agricultural Loans Scheme Law

Short title.

2. In this Law —

Interpretation.

“applicant” means person, partnership or co-operative society who or which has applied for a loan under this Edict;

“Board” means Enugu State Agricultural Loans Board established by section 4;

“borrower” means person, partnership or co-operative society to whom or which a loan is granted under this Edict;

“Chairman” means Chairman of the Board;

“Commissioner” means State Commissioner charged with responsibility for matters relating to agriculture;

“Governor” means Governor of the State;

“Manager” means Manager of the Board

“member” means member of the Board and includes the Chairman;

“public service” means public service of the State or of the Federation as defined by the Constitution of the Federal Republic of Nigeria, 1999;

“Scheme” means Enugu State Agricultural Loans Scheme established by section 3;

“State” means Enugu State of Nigeria.

3. (1) There is hereby established in the State a scheme to be known as the Enugu State Agricultural Loan Scheme.

Establishment
and objects of
the Scheme.

(2) The objects of the Scheme are —

- (a) to improve food production in the State by providing for farmers easy access to agricultural credit from commercial banks and other institutions which provide agricultural credit;
- (b) to ensure judicious utilization or application by farmers of agricultural credit obtained under the Scheme;
- (c) to provide effective machinery for the recovery from benefitting farmers of agricultural loans obtained under the Scheme;
- (d) to encourage farmers to form registered co-operative societies for a more effective and prudent use of agricultural credit obtained under the Scheme.

Establishment and composition of the Board.

4. (1) There is hereby established for the purpose of giving effect to the Scheme, a board to be known as the Enugu State Agricultural Loans Board.

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

(3) The Board shall consist of —

- (a) a Chairman appointed on part-time basis by the Governor from amongst persons who are not engaged in the public service and are knowledgeable in matters relating to agriculture;
- (b) three or four persons appointed on part-time basis by the Governor from among persons who are not engaged in the public service, and one of whom shall be a practicing farmer, to represent the interests of farmers;
- (c) a representative of the State Ministry charged with the responsibility for matters relating to agriculture;
- (d) a representative of the State Ministry charged with the responsibility for matters relating to finance;
- (e) a representative of the banking institution to be nominated by the bank designated in that behalf by the Commissioner;
- (f) the Director of Co-operatives or his representative; and
- (g) the Manager.

(4) Persons who are members by virtue of paragraphs (c) to (g) of subsection (3) are *ex officio* members.

(5) The Board may co-opt any person who appears to it to have experience in the development of agriculture or food production to be its member for such meeting or meetings as it may determine.

(6) A person co-opted by virtue of subsection (5) shall have all the rights and privileges of a member, except that he shall not have the right to vote at such meeting or meetings or to count for a quorum.

5. The validity of the proceedings of the Board shall not be affected by any vacancy among the members or any irregularity in the appointment of a member.

Validity of proceedings.

6. (1) A member of the Board other than an *ex officio* member shall, subject to the pleasure of the Governor, hold office for a term of three years as may be specified in the instrument or letter by which he is appointed; and shall be eligible for reappointment for another term at the expiration of the first term.

Tenure of office

(2) Notwithstanding anything contained in the instrument or letter by which he is appointed, a member may resign his appointment by writing under his hand addressed to the Governor and upon receipt by the Governor of that member's letter of resignation his appointment shall determine.

7. The Chairman and other members of the Board other than *ex officio* members shall be paid such allowances as may be approved by the Governor.

Remuneration of members.

8. The Board shall —

- (a) subject to this Law, determine and execute a policy for an effective and efficient operation of the Scheme;
- (b) receive, examine and approve applications for loans for any of the purposes for which the Scheme is established;
- (c) on the approval of such applications, and subject to such conditions as it may impose, grant loans to the applicants out of moneys drawn from the loan account of the Board;
- (d) in line with the policy on banking of the Federal Government for the time being in force, open and maintain with the Central Bank of Nigeria or any other commercial bank of firm financial standing a special account (in this Law called "loan account") into which shall be paid all moneys borrowed or obtained from commercial banks, agricultural institutions or other sources for lending, upon

Functions of the Board.

such terms as the Board shall determine, to farmers, co-operative societies and other similar bodies;

- (e) use its best endeavours to encourage farmers to form registered co-operative societies or other similar bodies in accordance with one of the objectives of the Scheme.

Power of the Board to enter into contract.

9. (1) The Board may enter into such contract as may be necessary or expedient for giving effect to the provisions of this Law.

(2) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal may be entered into or executed on behalf of the Board by any person generally or specifically authorized by the Board for that purpose.

(3) Any member who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board shall as soon as he becomes aware of the existence of such contract or arrangement forthwith disclose his interest to the Board and shall not vote on any question pertaining to such contract or arrangement.

Meetings.

10. (1) The Board shall meet as and when the need arises; provided that

in any one year the Board shall hold at least five meetings.

(2) All meetings of the Board shall be summoned at the direction of the chairman or at the request made to the Chairman in writing by three members.

(3) Every meeting of the Board shall be presided over by the Chairman, but in his absence or incapacity the members present shall elect from among their number a person to preside at the meeting and the person so elected shall have all the powers and privileges of the Chairman for that meeting.

Quorum.

11. At a meeting of the Board four members shall form the quorum.

12. The Board may make standing orders providing for the proper conduct of the business and meeting of the Board, and in particular —

- (a) the method of entering into contracts and execution thereof;

and

- (b) the signing of cheques and other documents.

Standing orders.

Operation of loan account.

(2) A withdrawal or disbursement from the loan account shall not be made except by the authority of the Board.

14. (1) The Board may, with the approval of the Governor, appoint an officer in the State Public Service, holding an office not below the rank of Deputy Director, to be the Manager.

Appointment of Manager.

(2) The Manager shall be the chief executive of the Board and shall be responsible for the execution of the policy decisions and the day-to-day business of the Board.

(3) In particular and without prejudice to the generality of subsection (2), the Manager shall —

- (a) exercise general control and supervision over the staff of the Board; and
- (b) deploy the material and human resources available to the Board in such a manner as to attain the purposes of this Law.

15. (1) The Board shall appoint a person employed in the State Public Service and who is a qualified legal practitioner to be the Secretary to the Board.

Secretary of the Board.

(2) The Secretary shall —

- (a) serve as the publicity officer of the Board;
- (b) conduct all the correspondence of the Board;
- (c) record all the proceedings of the Board;
- (d) give, as may be necessary, legal advice to the Board; and
- (e) perform such other functions as the Board or the Manager may from time to time direct.

16. The Board may, with the approval of the Governor, appoint such staff or agents as it may require for the discharge of the Board's functions under this Law.

Employment of staff.

17. Service under the Board shall be public service for pension purposes within the meaning of the pensions Law.

Payment of pension benefits.

18. (1) The Board may make regulations generally for purposes of this Law, and without prejudice to the generality of the foregoing, may by regulations —

Regulations.

- (a) prescribe the procedure to be followed for the purpose of its functions under this Law;
- (b) designate movable and immovable properties including products, shares of companies and other chattels that may be accepted as security for a loan, and prescribe the conditions under which such security may be accepted;
- (c) prescribe the form to be adopted in reporting the activities of the Board during the preceding year;
- (d) the procedure for collecting repayments of loans together with interests thereon;
- (e) ensure that loans granted by the Board are —
 - (i) spent for any of the purposes for which the Scheme is established, or
 - (ii) invested in sound agricultural operations under the supervision of the Board;
- (f) prescribe the category of farmers entitled to benefit from loans granted under this Law;
- (g) prescribe rules generally for the better administration of the loan account.

Funds of the Board.

19. The funds of the Board for the purpose of its functions under this Law shall consist of —

- (a) such moneys as may from time to time be appropriated by the State Government or the Federal Government or any of their agencies for the purposes of the functions of the Board under this Law;
- (b) moneys raised by loan under the borrowing powers vested in the Board by this Law;
- (c) such interests as may accrue from investments made by the Board;
- (d) moneys accruing by way of repayment of loans made under this Law together with interests on such loans;
- (e) such other sums of money as may in any manner become payable to the Board in connection with its functions under this Law.

Application of funds.

20 The funds of the Board as specified in section 19 of this Law shall be paid into the loan account and applied by the Board in pursuance of its

functions under this Law.

21. (1) Subject to this section, the Board may borrow, from sources within Nigeria, sums of money required by it for discharging its functions.

Borrowing powers.

(2) The power to borrow is exercisable with the prior approval in writing of the Governor as to —

- (a) the amount of money sought to be borrowed;
- (b) the source of the borrowing;
- (c) the terms on which the borrowing may be effected.

(3) The approval of the Governor referred to in subsection (2) may be —

- (a) either general or limited to a particular borrowing; or
- (b) subject to such conditions as he may specify.

(4) A person or body lending money to the Board shall not be bound to inquire whether the borrowing of money is within the powers of the Board.

22. The Board shall not later than the 30th day of November in each year, prepare and submit to the Governor an estimate of the income and expenditure of the board for the next ensuing financial year.

Annual estimate.

23. (1) As soon as may be after the end of a financial year but not later than the 31st day of March next following, the Board shall —

Reports, accounts and auditing.

- (a) prepare a general report of its proceedings and activities during the preceding year; and
- (b) transmit to the Governor that report together with a certified copy of the audited accounts of the Board.

(2) The Board shall —

- (a) keep proper books of accounts;
- (b) keep proper records relating to such accounts; and
- (c) prepare in respect of each financial year, a statement of accounts in a form prescribed by the State Commissioner responsible for matters relating to finance.

(3) The accounts of the Board shall be audited annually by such firm of auditors as the Board may, with the approval of the Governor, appoint in that behalf.

(4) The accounts of the Board together with the auditor's report thereon shall in each year be laid before the State Public Accounts Committee

Charge on property and priority.

24. Where a loan is granted by the Board on the security of a mortgage of any property, whether with or without any other security, the property shall from the date of the mortgage be charged with the repayment of such loan and with interest thereon in priority, except as may be otherwise specified in the mortgage, to every other debt, mortgage or charge whatsoever affecting the property.

Proper application of loan.

25. (1) Where the Board has granted a loan, the Board shall from time to time make or cause to be made such examination and periodic inspection as may be necessary to ensure that the loan is being or has been applied to the purpose for which it was granted.

(2) The Board may in writing authorize any other person to make such examination or periodic inspection, and the borrower shall produce to that person all the relevant books, documents or other matters and things necessary for the purpose of the examination or inspection.

(3) A person duly authorized by the Board under subsection (2) may for the purposes of this section, at any reasonable time, enter any premises, building or land owned or occupied by the borrower or his agents.

(4) A person making examination or inspection by virtue of subsection (2) shall after the examination or inspection submit a full report to the Board.

(5) In order to further ensure the proper application of a loan, that portion of the loan designated for supplies, services or equipment, may be paid by the Board directly to a third party acceptable to the applicant.

(6) Payment made to a third party by virtue of subsection (5) shall be deemed to be a loan made to the applicant.

Order for repayment of misapplied loan after inspection.

26. Where upon an examination or inspection made under section 25, it appears to the Board that a sum being the whole or part of a loan granted by the Board is not being or has not been applied to the purpose for which the loan was approved, the Board may by letter addressed to the borrower order that the sum be repaid to the Board within a time specified therein and the sum so ordered to be repaid shall thereupon become a debt due to the Board and payable within the time specified.

Order for repayment of misapplied or outstanding loan

27. (1) Where no examination or inspection under section 25 is made, and the Board is of the opinion that a loan granted under this Law has been misapplied, or where the repayment of the whole or any part of a

loan granted under this Law is overdue, the Board may in addition to or in lieu of any proceedings, whether the loan has been secured by mortgage or otherwise, by letter addressed to the borrower order that the loan or that part of the repayment which is overdue be repaid to the Board within the time specified therein.

(2) Where the borrower fails to comply with an order of the Board made pursuant to subsection (1), the Board may foreclose the mortgage if the loan is secured by mortgage, and shall if the loan is unsecured, have a lien on any property purchased with any part of the loan until the loan or that part thereof, overdue for repayment is repaid.

28. Where a borrower who has not fully repaid the loan granted to him dies, or, not being an individual, is dissolved, the Board, its officer or agents may, at any reasonable and convenient hour, enter any premises where chattels purchased or deemed to have been purchased with the whole or any part of the loan are kept, displayed, or stored and with the person who has custody thereof, take inventory of the chattels.

Power of Board's officials to enter premises and take inventory of chattels on borrower's death or dissolution.

29. No member, officer or agent of the Board shall be liable for any act done in good faith while engaged in any duty under this Law.

Protection of members, officers and agents

30. A person who willfully obstructs the Chairman or other officer or agent of, or any other person authorized by the Board in the due execution or enforcement of a provision of this Law, is guilty of an offence and liable, upon conviction, to a fine of two hundred naira or to imprisonment for one year, or to both such fine and imprisonment:

Obstruction of Board's officials prohibited.

Provided that where the offence involves entering of premises by an officer of, or other person authorized by, the Board in that behalf, there shall be no liability under this section unless the officer or that other person presents to the owner or occupier of the premises, on demand by the latter, a written authority of the Board to the officer or that person to enter therein.

31. Every loan granted by the Board under this Law shall bear interest at a rate from time to time prescribed by the Board.

Interest on loans.

Insurance.

32. (1) Where a loan is granted on conditions that the borrower shall insure the farm in respect of which the loan is provided, the Board may in lieu thereof insure that farm at the borrower's expense with any insurance corporation or company of firm financial standing against damage by fire, flood or other mishap for an amount not less than the amount of the loan for the period in which the loan is outstanding.

(2) The insurance policy shall be taken out in the joint names of the Board and the borrower.

Offences by applicants.

33. An applicant who —

(a) with intent to defraud, makes to the Board a material statement which he knows to be false or does not believe to be true;

(b) with intent to defraud, fails to disclose to the Board a material information within his knowledge;

is guilty of an offence and liable upon conviction to a fine of two hundred naira or to imprisonment for one year or to such fine and imprisonment.

Corruption in connection with loans.

34. (1) A member, servant or agent of the Board, who corruptly demands, accepts or obtains or agrees to accept or obtain from a person any property or benefit of any kind for himself or for any other person in respect of or in connection with a loan or an application for a loan under this Law is guilty of an offence and liable upon conviction to a fine of two hundred naira or to imprisonment for one year or to both such fine and imprisonment.

(2) A person who corruptly gives or promises or offers to give any property or benefit of any kind to a member, servant or agent of the Board in respect of or in connection with a loan under this Law or application for such loan, is guilty of an offence and liable upon conviction to a fine of two hundred naira or to imprisonment for one year or to both such fine and imprisonment.

Authentication of documents

35. The fixing of the common seal of the Board shall be authenticated by the signatures of the Manager and the Secretary of the Board or any other persons authorized by the Board to act in their stead.

36. In any civil proceedings by or against the Board in respect of a loan or security for a loan granted under this Law, the Board may be represented by the Chairman or any other officer or member of the Board authorized by the Chairman in writing to represent the Board or a law officer or any other legal practitioner.

Legal representation.

37. Service upon the Board of a notice, order or other document or process may be effected by —

Service of process.

(a) delivering it, or

(b) sending it by registered post;

to the Chairman or Manager at the principal office of the Board.

38. Registration fees under the provisions of the Land Instruments Registration Law or of any law amending or replacing the same shall not be payable in respect of a document for securing a loan made by the Board or a document discharging any document or security.

Exemption from registration fees.