

CHAPTER 145

TOWN AND COUNTRY PLANNING LAW

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CHAPTER 145

TOWN AND COUNTRY PLANNING LAW

A Law to make Provisions for the replanning, improvement and development of different parts of Ebonyi State of Nigeria.

(28th March, 1946)

L. of N. 1948
Cap. 155.
N. 11 of
1950.
Sec. 244 of
16 of 1950
N.L.N. 47 of
1951.
N.L.N. 131 of
1951, N.L.N.
47 of 1955.
Sec. 227 of
E.R.N.L. 17
of 1960.
L.E.N. Cap.
126, 1963.
Short title

Interpretation.

PART I-PRELIMINARY

1. This Law may be cited as the Town and Country Planning Law.
2. (1) In this Law:
 - "Authority" or "the Authority" means an executive authority appointed under section 4;
 - "building operations" include any road works preliminary or incidental to the erection of buildings;
 - "Court" means either the High Court or a Customary Court as the case may be;
 - "development" in relation to any land includes any building or rebuilding operations and any use of the land or any building thereon for a purpose which is different from the purpose for which the land or building was last being used:

Provided that the laying down by the occupier of farmland to fallow or any change of crops grown or to be grown or in the method of their cultivation by the said occupier shall not be deemed to be development save in so far as the Commissioner, the Authority or a Local Government Council may determine;

 - "existing building" means a building erected or constructed before the date of the order declaring a planning area under section 10, and includes a new building within the meaning of the Townships Ordinance;

"fence" includes any hoarding, paling, banks and walls used as such;

"hedge" includes any tree or shrub forming a part of a hedge;

"holding" means any piece or parcel of land, and "original holding" and "final holding" means respectively, with reference to a scheme which provides for the redistribution of holdings, a holding prior to its amalgamation with other holdings for the purpose of redistribution and a holding allotted in pursuance of redistribution;

"land" includes land covered with water and also everything attached to the earth or permanently fastened to anything which is attached to the earth and also all chattels real and tenures of every description and any interest therein and also undivided shares of land but does not include minerals;

"owner" includes joint owner, lessee, tenant for life, and any other person in the actual possession of premises or entitled to receive the rents of premises of any tenure or description, and the agent or attorney of such persons or any of them, and any other person who has an interest in or draws the rents;

"planning area" means an area declared by the Commissioner to be an area to which this Law relates and "planned area" shall be construed accordingly;

"premises" includes messuages, buildings, lands, tenements and hereditaments;

"responsible authority" means, with reference to a scheme, the authority named in the scheme as responsible for the due execution of the scheme or any part thereof;

"road" includes any road whether public or private and any street, square, Court, alley, lane, bridge, footway, trace, bridle path, path, passage or highway, whether a thoroughfare or not;

"scheme" means a town or country or a joint town and country planning scheme made under this Law;

"site" in relation to any building includes offices, outbuildings, yards, Courts or gardens occupied or intended to be occupied therewith.

- (2) For the purposes of this Law, the placing or keeping on any land of any shed, tent or other object, whether fixed or movable or collapsible, which is not a building shall be a use of that land.

**PART II.-PLANNING SCHEMES AND PLANNING
AUTHORITIES**Scope of
planning
schemes.

3. A planning scheme may be made under this Law with respect to any land, whether there are or are not buildings thereon, with the general object of controlling the development and use of land comprised in the area to which the scheme applies, of securing proper sanitary conditions, amenity and convenience, and of preserving buildings or other objects of architectural, historic or artistic interest and places of natural interest or beauty and generally of protecting existing amenities whether in urban or rural portions of the area.

Commissioner
may appoint
planning
Authorities.

4. (1) Where the Commissioner is of the opinion that a scheme should be made for any part of Ebonyi State of Nigeria, he may appoint a planning Authority for such area, which planning Authority shall contain adequate local representation.
- (2) Such planning Authority shall be the executive Authority for the planning and carrying through of any scheme under this Law relating to the area for which the planning Authority was appointed.
- (3) The same planning Authority may be appointed for one or more areas.

Membership
of planning
Authorities.

5. (1) Subject to the provisions of subsection (2):
- (a) the Authority shall consist of such members as the Commissioner may appoint; and
- (b) the Commissioner may appoint one of the members of the Authority to be the chairman of the Authority.
- (2) Notwithstanding the provisions of subsection (1), the Commissioner may at any time by notice in the *Ebonyi State of Nigeria Gazette*:
- (a) appoint additional members to the Authority for such purpose as may be specified in such notice;

- (b) vary the constitution of the Authority by appointing other persons as members of the Authority in substitution for those originally appointed; and
 - (c) appoint a different chairman in the place of the one originally appointed.
 - (3) The Authority shall, if it considers such action desirable, have the power to co-opt as members of the Authority for such period or for such purpose as it deems fit any person or persons interested in the development of the area in connection with which the Authority has been constituted:

Provided that while a member so co-opted shall have all the rights of a member he shall not be entitled to vote.
 - (4) Where the Commissioner appoints a Local Government Council as a planning Authority, the provisions of section 8 relating to a quorum shall not apply unless the Commissioner otherwise directs and the business of the Local Government Council shall be conducted in accordance with its standing rules and orders and in the absence of such standing rules and orders, in such manner as the Commissioner may approve.
 - (5) Where the Commissioner appoints a Local Government Council to be a member of the Authority, such council may be represented by any member thereof authorized from time to time by the Council concerned to act on its behalf and such Council shall be bound by the acts and decisions of its member so authorized.
- 6 The Commissioner, or the Authority with the approval of the Commissioner, may appoint a member or some other person to be the secretary to the Authority.
7. (1) The Authority shall be given by the Commissioner a name indicative of the area or place in which the Authority is carrying out its duties and such name shall include the words "planning authority".
- (2) The Authority shall be a body corporate and have perpetual succession and a common seal of such device as may be approved by the Commissioner and may sue and be sued by the name aforesaid.

Secretary of
planning
Authority.

Names and
incorporation
of planning
Authorities.

- (3) The seal of the Authority shall be authenticated by the signatures of the Chairman or some other member of the Authority authorized by the Authority to act in his stead in that behalf, and of the secretary to the Authority or some person authorized by the Authority to act in his stead in that behalf and a record shall be kept of every occasion on which the seal is used.
- (4) Every document purporting to be an instrument executed by the Authority and to be sealed with the seal of the Authority authenticated in the manner provided by subsection (3) shall be officially and judicially noticed and be deemed to be such an instrument without further proof unless the contrary be shown.

10.

Conduct of
business

8. (1) The chairman may, whenever he thinks fit, call a meeting of the Authority and subject as aforesaid the Authority shall meet and shall from time to time make such arrangements with respect to the place, day, hour, notice, management and adjournment as it may think fit.
- (2) The Commissioner may specify the number of members of the Authority, inclusive of the Chairman, necessary to form a quorum and in the absence of such specification a quorum shall consist of not less than half the total membership of the Authority, and provide for the selection of a chairman in the absence of the chairman appointed under section 5.
- (3) The chairman, in addition to his vote as a member of the Authority, shall also have a casting vote in cases where the votes are equally divided.

11

General
powers of the
authority

9. (1) The Authority, subject to the provisions of subsection (2), shall carry out its duties under this Law in accordance with such general or specific directions as the Commissioner may give, such directions not conveying any power or right additional to or in extension of any of the powers or rights conferred upon the Authority by this Law.
- (2) When constituting an Authority or at any time after the Authority has been constituted, the Commissioner may, from time to time, direct that the Authority shall not exercise certain specified powers under this Law and thereupon such of the provisions of this Law as relate to such powers shall not vest in the Authority.

- (3) The Authority may engage or employ such officers and servants as are deemed necessary for the due and proper execution and enforcement of its duties under this Law.

- 10. (1) Upon the appointment of an Authority, the Authority shall make such investigation into the planning of the area in question as it may consider necessary and if the Authority is of the opinion that schemes should be made for the area or any part thereof and makes representation to that effect to the Commissioner, the Commissioner may by order declare that the area specified in such representation shall be a planning area.

Declaration
of planning
areas.

Provided that the Commissioner may before approving, modify the area specified in the Authority's representation by adding thereto or by omitting therefrom any portion or portions thereof.

- (2) Such order shall be published in the *Ebonyi State of Nigeria Gazette* and shall be given such further publicity as the Authority may consider necessary and shall come into operation upon the date of such publication in the *Ebonyi State of Nigeria Gazette* and shall cease to have effect if within three years from such date no scheme in respect of the planning area has been approved under the provisions of section 18.

- 11. (1) When an order declaring a planning area has been published under section 10, no person shall, within the planning area, carry out any development of land or any construction, demolition, alteration, extension, repair or renewal of any building until a scheme is approved under section 18 for the area containing such land or building:

Interim
development
orders.

Provided that the Commissioner may make a general order with respect to the interim development of land within the planning area and may make special orders with respect to the interim development of any such land in any particular area.

- (2) Subject to the terms of any general order made by the Commissioner under subsection (1), the Authority may grant to any person applying in writing therefor interim development permission, subject to such conditions as it may deem necessary to impose, to develop land or to

construct, demolish, alter, extend, repair or renew a particular building lying within the planning area.

- (3) An application for interim development permission shall be deemed to be refused unless within two months of the date of its receipt by the Authority notice has been given that the Authority has decided:
 - (a) to grant permission with or without conditions;
 - (b) to refuse permission; or
 - (c) to postpone consideration on the ground that the development cannot be carried out immediately.
- (4) An aggrieved person may appeal to the Commissioner against a decision made by the Authority under the preceding subsection and such appeal must be made within twenty eight days of the receipt of such decision or of the date by which the application is deemed to have been refused.
- (5)
 - (a) Every person who otherwise than under a scheme as finally approved under section 18 proceeds with or does any work in a planning area without such permission shall be liable, on summary conviction, to a fine of five thousand Naira and after conviction may be required by the Authority to remove any work performed and reinstate the land or building to the condition in which it was prior to the commencement of such work.
 - (b) If the person in question fails to comply with the requirements of the Authority, the Authority may itself have such work performed and recover the cost thereof from the person convicted.
- (6) For the purpose of this section, the expression "interim development" means development between the date on which declaration of a planning area takes effect and the date of the coming into operation of the scheme.

"Interim
development".

PART III.-PREPARATION AND APPROVAL OF SCHEMES AND SUPPLEMENTARY SCHEMES, AND VARIATION AND ABANDONMENT OF SCHEMES

Preparation of
planning
schemes.

12. Upon the declaration of a planning area, the Authority shall either frame a planning scheme for such area or any part thereof or adopt

with or without modification any scheme proposed by any or all of the owners of the land within such area.

13. (1) A scheme may be made under this Law with respect to any land, in any municipality, urban county, town, village, settlement or rural area, whether there are or are not buildings thereon, with the general object of controlling the development and use of the land comprised in the area to which the scheme applies, of securing proper sanitary conditions and conveniences, and the co-ordination of roads and public services, of protecting and extending the amenities and of conserving and developing the resources of such area.
- (2) Every scheme shall specify and define clearly the area to which it relates and shall include a plan in which shall be shown the extent of the scheme and such other matters as can conveniently be included therein.
- (3) Every scheme shall contain such provisions as are necessary or expedient for prohibiting or regulating the development and use of land in the area to which the scheme applies, and generally for carrying out any of the objects for which the scheme is made, and in particular for dealing with any of the matters mentioned in the First Schedule.
- (4) A scheme may provide for the redistribution of lands or for the readjustment of the boundaries and areas of any such lands.
- (5) Any law relating to development, road construction, or building operations inconsistent with the provisions of a scheme or the application of which would tend to hinder the carrying out of the scheme shall not apply to the area to which the scheme relates:
 Provided that where the scheme contains provisions suspending any enactment contained in a law the scheme shall not come into force unless a draft thereof has been submitted to and received the approval of the Legislative Houses of the State:
 And provided further that the refusal of a Legislative House to approve shall be without prejudice to the making of a new scheme.

Scope, content
and effect of
schemes

First Schedule

Obligation to
give
information
to the
Authority

14.

- (1) The Authority may, for any purpose arising in relation to the making, enforcement or carrying out of a scheme, by notice in writing require the owner of any land or building in the area to which such scheme relates or is intended to relate to state in writing and deliver or forward by registered post to the Authority within sixty days of the date of the notice, particulars of his estate, interest in or right over or in respect of such land or building, and the name and address, and the estate, interest or right, so far as they are known to him, of every person who to his knowledge has any estate or interest in or right over or in respect of such land or building.
- (2) Every person required to make and deliver or forward a statement under this section who shall willfully make and deliver or forward any false statement, or fail or refuse to make and deliver or forward a statement, shall be liable, on summary conviction, to a fine of Twelve Thousand Five Hundred Naira.

Power of
entry,
examination
and survey
for
preparation of
scheme

15.

- (1) The Authority may at any time cause the whole or any part of any land to be entered upon, examined and surveyed and the circumstances and requirements thereof to be investigated for the purpose of deciding whether or not a scheme should be made in respect of any such land or any part thereof and of making such scheme if decided upon.
- (2) Any person authorized in that behalf in writing by the Authority may, for the purpose of any entry, examination, survey or investigation which the Authority is authorized by this section to cause to be made, and on production of such written authority, enter and there do anything which such person shall reasonably consider to be necessary for the said purpose.
- (3) Every person who willfully obstructs or interferes with any other person in the exercise by such other person of any power vested in him by virtue of this section shall be liable, on summary conviction, to a fine of Six Thousand Five Hundred Naira.

16. (1) A scheme when framed shall be signed by the chairman where a Chairman has been appointed under the provisions of this Law and in other cases by the appropriate officer of the Authority.
- (2) The Authority shall forthwith prepare a notice stating:
- (a) the fact that the scheme has been framed;
 - (b) the boundaries of the area comprised in the scheme; and
 - (c) the place or places at which a copy of the scheme or plans of the area, and a statement of the land which it is proposed to acquire or such particulars as the Authority may deem necessary may be seen at reasonable hours.
- (3) The Authority shall cause the notice referred to in subsection (2) to be published in two issues of the *Ebonyi State of Nigeria Gazette* and it shall be given such further publicity as the Authority may consider necessary.
- (4) A copy of the scheme (together with the plans, if any) shall be deposited at the place or places mentioned in paragraph (c) of subsection (2) for a period of fourteen days subsequent to the publication of such notice as aforesaid in the *Ebonyi State of Nigeria Gazette* during which period the said scheme shall be open to the inspection of all persons interested free of charge.
- (5) (a) The Authority shall, within one month after publication of such notice, if practicable, cause to be brought to the notice of every owner of property affected by the scheme, the fact that his property is affected and require him if he wishes to object to the scheme, to lodge an objection with the chairman within a period of six weeks from the date of the notice in the *Ebonyi State of Nigeria Gazette*.
- (b) In the case of areas within the area of the authority of a Local Government Council, a notification in the manner in which the public notices of such council are made known shall be a sufficient compliance with paragraph (a).
- (6) Any person affected by a scheme may, within six weeks from the date of publication in the *Ebonyi State of Nigeria Gazette*, lodge with the chairman a written objection to any matter contained therein, other than an estimate of valuation.

Preparation
and
publication of
notice as to
scheme.

- (7) Every such objection shall within two months of its lodgment with the chairman be considered at a meeting of the Authority of which the objector shall be informed in writing.
- (8) At such consideration, the objector may appear and be heard in person or by duly authorized agent: Provided that where the Authority is a Local Government Council, the agent may not be a legal practitioner.
- (9) Where on the consideration of any such objection, or otherwise, the Authority considers any modification of the scheme to be necessary, it shall cause notice of such proposed modification to be given to any person who appears to it to be affected or likely to be affected thereby; requiring him, if he wishes to object to such proposed modification, to lodge an objection with the chairman within a period to be stated in the notice, not being less than twenty-one days.
- (10) If such objection be lodged within the period stated in the notice, the provisions of subsections (7) and (8) shall apply thereto.

Submission of
scheme to
Commissioner.

- 17. (1) Within three months of the consideration of all objections and modifications necessitated thereby, the Authority shall submit the scheme to the Commissioner.
- (2) Every scheme submitted to the Commissioner shall be accompanied by:
 - (a) an estimate of the number of persons who will be dis-housed by the execution of the scheme;
 - (b) a schedule of such objections as have been made under section 16, giving the names of the persons by whom the same were made;
 - (c) a schedule showing the way in which the Authority has dealt with such objections;
 - (d) a statement of the reasons for any modifications made in the scheme as originally framed; and
 - (e) the suggested method of dealing with dis-housed persons.

Order of
Commissioner.

- 18. (1) The Commissioner may make an order approving a scheme submitted to him under section 17, or rejecting it or approving it with such conditions and modifications as he thinks fit.

- (2) The approval or rejection of any scheme under subsection (1) shall be notified in the *Ebonyi State of Nigeria Gazette*.
 - (3) Notification of the approval or rejection of any scheme under subsection (2) shall be conclusive evidence that such scheme was duly framed and approved or rejected, as the case may be.
19.
 - (1) A scheme shall not have effect unless and until it is approved by order of the Commissioner and before giving his approval the Commissioner may make such modifications thereto as he thinks fit.
Scheme non effective until approved.
 - (2) A scheme when so approved shall have effect as if enacted herein.
20.
 - (1) In any case where a scheme prepared under the provisions of the Law and approved under section 18 is in operation, the Authority may prepare or adopt a scheme for any part of the area within the original scheme.
Supplementary schemes.
 - (2) A scheme prepared under the preceding subsection, and hereinafter referred to as a supplementary scheme, shall incorporate, with or without modifications, all such provisions of the original scheme as relate to the particular area and may include such additional provisions as may be necessary or desirable.
 - (3) The preparation of a supplementary scheme shall not affect the operation of the original scheme except that as from the date on which the supplementary scheme comes into operation, it shall take the place of the original scheme in respect of the area or matters to which it applies.
21. If within six months from the date on which any scheme is submitted under section 17, approval or rejection of the same has not been notified under section 18, such scheme shall be deemed to be rejected.
When scheme deemed to be rejected.
22. When a scheme has been approved by the Commissioner in respect of the whole or part of a planning area, a copy of it shall be deposited for inspection in such office within the planning area as the Authority shall direct.
Deposit of scheme after approval.

Abandonment
of scheme.

23. (1) At any time after approval of a scheme has been notified under section 18, the Authority may, with the consent of the Commissioner and for reasons which the Commissioner considers satisfactory, abandon the scheme or any part thereof and thereupon such abandonment shall be notified in the *Ebonyi State of Nigeria Gazette* and upon such abandonment being so notified any right, title or interest in any land which ceased to have any effect when the land became vested in the Authority by virtue of this Law shall revest in all respects in the persons entitled thereto at the date on which any such land became vested in the Authority as if such right, title or interest had never ceased to have effect:
Provided that where land has been purchased by the Authority such land shall be disposed of as the Commissioner may direct.
- (2) Upon the abandonment of an approved scheme or any part thereof, the Authority shall pay compensation to any person who has incurred reasonable and necessary expenditure for the purposes of complying with such scheme, in so far as such expenditure is rendered abortive by reason of such abandonment.
- (3) In case of dispute, such compensation shall be assessed by the Court as hereinafter mentioned.

Powers as to Matters not finally dealt with by the Scheme

Supplementary
orders.

24. (1) The Authority may make orders (in this Law referred to as supplementary orders) or adopt, with or without modifications, supplementary orders proposed by owners of land; as respects any area of the scheme, supplementing existing provisions or varying the scheme where necessary or expedient.
- (2) A supplementary order requires the approval of the Commissioner as if it were a scheme.
- (3) A supplementary order shall be deemed to form part of the scheme to which it relates and may be varied, modified or revoked by a subsequent supplementary order.

General
development
orders.

25. (1) The Authority may include in the scheme a provision prohibiting or restricting building operations to proceed

- pending the coming into operation of a general development order, which may be in respect of the whole or a part of the area subject to such prohibition or restriction and any such general development order shall require the prior approval of the Commissioner.
- (2) Within a period of three months from the expiration of each three years after the coming into operation of a scheme, the Authority shall consider the desirability of making a general development order in respect of all land which remains subject to prohibitions or restrictions.
 - (3) Any person aggrieved by the failure of the Authority to make a general development order as respects any land in which he is interested, may appeal to the Commissioner for such an order to be made.
 - (4) A general development order may be revoked or varied by a subsequent general development order.
26. (1) Applications for permission to develop may be made in respect of areas subject to the coming into operation of a general development order.
- (2) The Authority may grant such applications, with or without conditions, where they are satisfied that the proposed development will not prejudice the proper carrying out of the scheme and that the operations will not:
- (a) involve injury or danger to health or involve excessive or premature expenditure of public money; or
 - (b) be likely seriously to injure the amenities of the locality.
- PART IV.-EXECUTION OF SCHEMES**
27. Where the scheme has been approved in respect of a planning area, the Authority shall be responsible for executing and enforcing the scheme.
28. (1) The Authority may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of a scheme.
- (2) Every such contract shall be approved by the Authority and shall be made on behalf of the Authority:

Power to permit building pending the coming into operation of a general development order.

Provision for execution of scheme.

Power to make and perform contracts.

- (a) where there is a Chairman, by the Chairman; and
- (b) where the Authority is a Local Government Council, in the manner in which contracts may lawfully be entered into by the council concerned.

Power to
enforce and
carry into effect
schemes.

29. (1) The Authority may at any time:
- (a) remove, pull down, or alter, so as to bring into conformity with the provisions of the scheme, any building or other work which does not conform to those provisions, or the removal, demolition or alteration of which is necessary for carrying the scheme into effect or the erection or carrying out of which contravenes any provision of the scheme;
 - (b) where any building or land is used in such manner as to contravene any provision of the scheme, prohibit it from being so used;
 - (c) where any land has been, since the date when the order declaring a planning area under section 10 of the Law has been published, put to any use which contravenes any provision of the scheme, reinstate the land; and
 - (d) execute any work which it is the duty of any person to execute under the scheme in any case where in the opinion of the Authority delay in the execution of the work has occurred and the efficient operation of the scheme has been, will or may be thereby prejudiced.
- (2) Before taking any action under this section, the Authority shall serve a notice on the owner and on the occupier of the building or land in respect of which the action is proposed to be taken and on any other person who, in its opinion, may be affected thereby, specifying the nature of and the grounds upon which it proposes to take such action.
- (3) The date stated in a notice served under this section, as the date on or after which the intended exercise of the power therein mentioned is intended to be begun, shall be not less than three months when any building is affected, and in any other case not less than one month after the date of service of such notice, and the Authority shall not do any act or thing in exercise of such power in relation to the building or land mentioned in the notice before such date.

- (4) Every person who uses any building or land in a manner prohibited under this section shall, in addition to any civil liability, be guilty of an offence and liable, on summary conviction, to a fine of Six Thousand Five Hundred Naira.
30. Any person authorized in that behalf in writing by the Authority may, on production of such written authority, enter on any land in a planning area to which a scheme relates and there make such inspection, survey, examination and investigation and there carry out such work as may be necessary for the purposes of the enforcement or carrying out of a scheme.
31. Every person who willfully obstructs or interferes with any person in the lawful exercise of any power conferred by this Law shall be liable, on summary conviction, to a fine of Six Thousand Five Hundred Naira.
32. Any person who willfully does any act which is a contravention of a provision contained in a scheme shall be liable, on summary conviction, to a fine of Twelve Thousand Five Hundred Naira and in the case of a continuing offence, to a further fine of One Thousand Five Hundred Naira for every day during which the offence continues.

Power of entry and survey for carrying out a scheme.

Penalty for obstruction.

Penalty for contravention of a scheme.

PART V.-ACQUISITION AND DISPOSAL OF LAND FOR SCHEMES

33. (1) The Authority may, for the purpose of the execution of the provisions of this Law, purchase any land in an area declared under section 10 to be a planning area such purchase being either by agreement or compulsorily in manner hereinafter provided notwithstanding that such land is not immediately required.
- (2) The Authority may, if requested by a person to whom compensation is payable under this section, retain the sum payable for such period as may be agreed upon and while such sum is so retained pay to him interest thereon at the rate of one thousand Naira per centum per annum or such lower rate as may be agreed upon.

Power to purchase land.

Determination
of leases.

34. Where an approved scheme provides for the acquisition of any land by the Authority, all leases and all rights of occupancy under any tenancy in respect of such land which are existing at the time of the notification that the scheme is approved under section 18 shall be deemed to be terminated, if not previously terminated by agreement, on the expiration of the period appointed in the scheme in that behalf, but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47.

Vesting of land
acquired and
payment of
compensation.

35. (1) Where an approved scheme provides for the acquisition of any land by the Authority, such land shall vest in the Authority on such day as is appointed in the scheme in that behalf, free from incumbrances, but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47.
- (2) When any land situate in a planning area but not included in a scheme is to be acquired under the provision of section 33, such land shall vest in the Authority upon service of a notice by the Authority on the owner that such land is required by the Authority for the development of the area. All leases and rights of occupancy under any tenancy in respect of such land or building which are existing at the time of notification shall be deemed to be terminated, if not previously terminated by agreement, at the time of the service of the notice but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47.
- (3) Upon service of a notice as in subsection (2), the provisions of section 36 shall apply to such land as if provision for the acquisition of the same had been made in a scheme approved under section 18.
- (4) When any land becomes vested in the Authority under the provisions of this section, the Authority shall by notice in writing proceed to offer to the owner thereof and to such other persons, if any, as have any interest therein, such compensation therefor as the Authority thinks fit.

Surrender of
possession.

36. (1) At any time after an approved scheme has been notified under section 18, the Authority may serve a notice on the owner of any land or building thereby affected requiring

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him to give up possession thereof within a period to be specified in the notice, not being less than sixty days from the date of such service:

Provided that such period shall not expire earlier than the period appointed in the scheme for the determination of leases and rights of occupancy in respect of such land or building.

- (2) A duplicate of such notice shall be served on the occupier or occupiers of such land or building.
 - (3) Every owner or occupier so served shall comply with the terms of the notice.
 - (4) Any such owner or occupier who fails to comply with the terms of such notice may be summarily evicted by any member of a police force upon a written request signed by the Chairman and addressed to the officer in charge of the police in the area in question.
- 37 (1) If for sixty days after the service of a notice under section 35 (4) no objection to the offer made in such notice shall have been lodged with the Authority, the amount specified in such offer shall be paid forthwith to the owner in full discharge of any claim for compensation.
- (2) If an objection is lodged within the prescribed time, any question as to the amount of the compensation payable in respect of the land acquired and any question as to the apportionment of such compensation among the persons having an interest in the land shall, in default of agreement, be determined by the Court as hereinafter mentioned.
38. (1) Any person interested in a matter that may be referred to the Court for determination under this Law may by written application to the Authority require that the matter be so referred and on receipt of such application, the Authority shall forthwith refer such matter as required.
- (2) Every such application shall be made within sixty days after the Authority shall have made known in writing to the person interested its final decision, and shall state the grounds on which it is based.

Payment of
compensation if
no objection to
offer under
section 35(4).

Reference of
certain matters
to Court.

PART VI.-COMPENSATION AND BETTERMENT

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Compensation

Provisions as to
compensation
for injurious
affection.

39. (1) Subject to the provisions of this Law, any person:
- (a) whose property within the area is injuriously affected by the coming into operation of any provision contained in a scheme or by the execution of any work under a scheme; or
 - (b) who for the purpose of complying with any provision contained in a scheme or in making or resisting a claim under the provisions of this Law relating to compensation and betterment, has incurred expenditure which is rendered abortive by a subsequent revocation or modification of the scheme; or
 - (c) who suffers damage by reason of any action taken by the Authority under section 29, subject to the provisions of subsection (3) of section 41,

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shall, if he makes a claim within the time limited for the purpose by this Law, be entitled to recover as compensation from the Authority the amount by which his property is decreased in value or, so far as it was reasonably incurred, the amount of the abortive expenditure, as the case may be.

- (2) In awarding any compensation payable in respect of property injuriously affected by the coming into operation of any provision contained in a scheme, account shall not be taken of any additional injurious affection of the property by reason that since the commencement of this Law the Commissioner has refused, on an appeal made to him under an interim development order, to grant an application for permission to develop the property, or that the Commissioner has imposed any conditions on the grant of such an application made since that date.

No
compensation
in certain
classes of case.

40. (1) No compensation shall be payable in respect of the prohibition imposed by subsection (1) of section 11 upon development of land or construction, demolition, alteration, extension, repair or renewal of buildings.

- (2) No compensation shall be payable in respect of any building the erection of which was begun after the date of the publication of the order declaring a planning area under section 10 unless such erection was begun under and erected in accordance with the permission of the Authority.
- (3) No compensation shall be payable in respect of any condition imposed by the Authority in respect of permission granted under subsection (2) of section 11 to develop land or to construct, demolish, alter, extend, repair or renew buildings.
- (4) No compensation shall be payable in respect of any of the following provisions of a scheme, namely any provision which:
 - (a) prescribes the space about buildings;
 - (b) limits the number of buildings or the number of buildings of a specified class which may be constructed, erected or made in or under any area;
 - (c) imposes any sanitary conditions in connection with buildings;
 - (d) restricts the purposes for and the manner in which land or buildings may be used or occupied, or reserves or allocates any particular land or all land in any particular area for buildings of a specified class or classes or to be used for a special purpose;
 - (e) regulates or empowers the Authority to regulate the size and height of buildings;
 - (f) prohibits or restricts building operations only pending the coming into operation of a general development order;
 - (g) prohibits or restricts building operations permanently on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services;
 - (h) prohibits otherwise than by way of prohibition of building operations the use of land for a purpose likely to involve danger or injury to health, or detriment to the neighbourhood or restricts otherwise than by way of restriction of building operations the use of land so far as may be necessary for preventing such danger, injury or detriment;

- (i) in the interests of safety regulates, or empowers the Authority to regulate, the height and position of proposed walls, fences or hedges near the corners or bends of roads or at railway level crossings;
 - (j) limits the number or prescribes the sites of new roads entering a road or the site of a proposed road;
 - (k) fixes in relation to any road or intended road a line beyond which no building in that road or intended road may project unless within a period of two years immediately preceding the publication of an order under section 10 declaring the planning area within which the scheme lies, the land was or formed the site of a building;
 - (l) in the case of the erection of any building intended to be used for purposes of business or industry, requires the provision of accommodation for parking, loading, unloading or fuelling vehicles, with a view to preventing obstruction of traffic on any road;
 - (m) prohibits, restricts or controls, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, or on any vehicle, boat, aircraft or other movable object whether on land or on or in water or in the air, of all or any particular forms of advertisements or other public notices; or
 - (n) prevents, remedies or removes injury to amenities arising from the ruinous or neglected condition of any building or by the objectionable or neglected condition of any land attached to a building or abutting on a road or situate in a residential area.
- (5) Nothing contained in subsection (4) shall preclude an owner from claiming compensation for loss or injury arising from:
- (a) being prevented by the operation of a scheme from maintaining a building which was in existence on the date of the publication of an order declaring a planning area under section 70 or from continuing to use any such building for the purpose for which it was used on such date; or
 - (b) where a permanent building which was in existence at any time within two years immediately before the date of the publication of an order declaring a planning area under section 10 has been demolished or been destroyed by fire or

when the owner is otherwise prevented by the operation of a final scheme from erecting on the site of such demolished or destroyed building a new building which substantially replaces such demolished or destroyed building or from using such new building for the purpose for which such demolished or destroyed building was last used.

- (6) In any case not otherwise expressly provided for in this Law, the Authority may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Law, or any regulation made or scheme sanctioned thereunder, in the Authority, or in the Chairman, or where the Authority is a Local Government Council in the Chairman of that council or in any officer or servant of the authority.

General power of Authority to pay compensation.

41. (1) Where any provision of a scheme is revoked or modified by a later scheme, no compensation shall be payable in respect of any property on the ground that it has been injuriously affected by any provision contained in the later scheme if and in so far as that later provision is the same, or substantially the same, as the earlier provisions so revoked or modified; but if at the date when the revocation or modification of that earlier provision becomes operative:

Exclusion of limitation of compensation in certain other cases.

- (a) there is still outstanding any claim for compensation duly made thereunder; or
 - (b) the time originally limited for making such a claim has not expired, any such outstanding claim and any such claim made within the time so limited shall be entertained and determined, and may be enforced, in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation, unless the claim is in respect of a restriction removed by the later scheme.
- (2) No compensation shall be payable under this Law in respect of any property on the ground that it has been injuriously affected by any provision contained in a scheme, if and in as far as the same provision or a provision substantially to the same effect was, at the date the scheme came into operation, already in force by virtue of some other written law.

"existing building".

- (3) A person shall not be entitled to recover compensation under this Law in respect of any action taken by the Authority under section 29 except in a case where a building or work which the Authority has removed, pulled down or altered was an existing building or an existing work or where a use of a building or land which it has prohibited was an existing use.

- (4) For the purposes of this section, an "existing building" shall include a building erected, constructed or carried out in accordance with the terms of an interim development order and an "existing use" includes any use of a building or land permitted by or under an interim development order.

Date on which compensation is calculated.

42.

When an area has been declared a planning area under the provisions of section 10, the value of any building or land in such area shall, for the purposes of determining the amount of compensation or betterment payable under the provisions of this Law, be deemed to be the value of the building or land on the day twelve months immediately prior to such declaration.

Making of claims for compensation.

43.

- (1) A claim for compensation shall be made by serving upon the Authority a notice in writing stating the grounds of the claim and the amount claimed.
- (2) Subject to the provisions of subsection (3), no claim for compensation shall be entertained unless such written notice has been served on the Authority within twelve months after the date on which the provision giving rise to the claim came into operation or within such longer period as may be specified in the scheme or in respect of expenditure rendered abortive by the revocation or modification of a scheme within twelve months after the date on which the revocation or modification of the scheme became operative.
- (3) Where it is alleged that property has been injuriously affected by the execution of any work, the period within which a claim in respect of that injurious affection may be made shall be a period of three years after completion of the work.

Betterment

44. (1) Where by the coming into operation of any provision contained in a scheme, or by the execution of any work under a scheme, any property within the area to which the scheme applies is increased in value, the Authority, if it makes a claim for the purpose within three years after the date on which the provision came into operation, or within three years after the completion of the work, as the case may be, shall be entitled to recover from any person whose property is so increased in value an amount not exceeding seventy-five *per centum* of the amount of that increase.
- (2) A claim in respect of an increase in the value of any property shall be made by serving upon the person from whom the amount alleged to be payable is claimed a notice in writing stating the grounds of the claim and the amount claimed.
- (3) Any sum recoverable under this section may be set off against any claim to compensation.
- (4) Where any provision of a scheme is revoked or modified by a later scheme, no property shall be deemed to be increased if and in so far as that provision is the same, or substantially the same, as a provision contained in the scheme so revoked or modified:

Recovery of betterment from owners of property increased in value.

Provided that, if at the date when the revocation or modification of such scheme becomes operative, there is still outstanding any claim in respect of an increase in the value of any property duly made thereunder, or the time originally limited for making such a claim has not expired, any such outstanding claim, and any such claim made within the time so limited, shall be entertained and determined and may be enforced in the like manner in all respects as if all the provisions of the earlier scheme had continued in operation.

PART VII.-LEGAL PROCEDURE

45. (1) Any dispute under this Law as to:
- (a) the right of a claimant to recover compensation,
- (b) the right of the Authority to recover betterment, or

Determination of claims and recovery of amounts due.

- (c) the amount and manner of payment of any such recoverable compensation or betterment, shall, upon the application of any party concerned, be heard and determined by a Court in the manner hereinafter provided.
- (2) Any dispute referred to the Court under the provisions of subsection (1) shall be by way of a suit by or against the Authority.
46. (1) All matters which by or under this Law may be referred to a Court for determination may, at the option of the Authority concerned and if the Authority is a Local Government Council then with the approval of the Commissioner, be determined either by the High Court or by a Customary Court upon which Courts necessary jurisdiction is hereby conferred.
- (2) When a matter is referred to the High Court for determination, it shall be determined by a Judge and the proceedings therein shall be as hereinafter provided.
- (3) When a matter is referred to a Customary Court, the steps to be taken for the appearance of the parties and the proceedings in Court shall be the same as if it were a suit for determination by that Court between two persons normally subject to the jurisdiction of that Customary Court.
47. In addition to the matters specifically provided for under this Law as being matters for determination by a Court, the Chairman of the Authority may submit for determination by a Court any other matter relating to a scheme.
48. (1) Upon the hearing of any matter before a Court, the Authority may appear by one of its officers or by a person specially appointed for that purpose by the Authority or when in the High Court or a Magistrate's Court, by a legal practitioner.
- (2) Proceedings for offences against any of the provisions of this Law shall be instituted by the Chairman of the Authority concerned or where the Authority is a Local Government Council, then in the manner in which such

Concurrent
jurisdiction of
High Court and
customary Courts.

Reference to Court
for decision in any
matter affecting a
scheme.

Appearance of
parties in Court.

proceedings may lawfully be instituted by the Local Government Council concerned, and the Authority may appear by one of its officers or by a person specially appointed by the Authority for the purpose or when in the High Court or in a Magistrate's Court, by a legal practitioner.

49. (1) All matters referred by an Authority to the High Court for determination shall be heard and determined by the Court:
 - (a) if the Authority is other than a Local Government Council, upon an originating summons in the form in the Second Schedule taken out by the Chairman of the Authority, and
 - (b) if the Authority is a Local Government Council, in the manner provided by the Local Government Law.(2) The Court shall hear and determine all matters herein as if the proceedings had been commenced in the ordinary way by a civil summons issued under the Law by which the Court was established and the rules thereunder which shall govern all matters or procedure.
50. Summonses in the High Court shall be served upon every party in the manner provided by section 58 not less than seven days before the time appointed for hearing.
51. Where in answer to a summons issued out of the High Court, a party shall not appear at the time appointed for the hearing, a decision by the Court may be given upon hearing the evidence adduced on the part of the Authority and of the parties and such decision shall be as effectual as if given after hearing and in the presence of all parties.
52. (1) No act done or proceeding taken under this Law shall be questioned on the ground merely of:
 - (a) the existence of any vacancy in, or any defect in the Constitution of, the Authority; or
 - (b) any omission, defect or irregularity not affecting the merits of the case.(2) Every meeting of the Authority, the minutes of the proceedings of which have been duly signed, shall be taken to have been convened and to be free from all defect and irregularity.

Forms of
summons in High
Court and
procedure thereon
Second
Schedule

Notice of hearing
in the High Court.

Procedure when
party fails to
appear on
summons in the
High Court

Validation of
acts and
proceedings.

Legal
proceedings.

53. The Chairman with the approval of the Authority or where the Authority is a Local Government Council, the appropriate officer of that authority may:

- (a) institute any legal proceedings on behalf of the Authority and may withdraw from the same;
- (b) defend any legal proceedings brought against the Authority;
- (c) compound any offence against this Law; and
- (d) compromise any claim made by or against the Authority, and the Authority may appear in the manner provided in section 48 (2).

Protection of
members and
servants of the
Authority.

54. No matter or thing done and no contract entered into by the Authority, and no matter or thing done by any member or by any servant of the Authority or other person acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into *bona fide* for the purpose of carrying out the provisions of this Law, subject the members or any of them or any such servant or other person personally to any action, liability or claim whatsoever.

Notice of action
against the
Authority

55. No suit shall be instituted against the Authority or any member or any servant of the Authority or any person acting under the direction of the Authority in respect of any act Authority, purporting to be done or any neglect of duty under this Law until the expiration of one month next after a written notice has been delivered at the office of the Authority or at the place of abode of such member, servant or other person stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims.

Evidence of
Authority's
approval

56. Whenever under the provisions of this Law, the power or right to do any act, or the validity of any act, depends upon the approval or consent of the Authority or the Chairman, a document signed by the chairman purporting to express such approval or consent, or where the Authority is a Local Government Council, by the appropriate officer of that council, shall be sufficient evidence thereof.

57. (1) Every notice required or authorized by this Law or by any regulation made thereunder to be served or given by or on behalf of the Authority shall be signed by the Chairman, or where the authority is a Local Government Council, by the appropriate officer of that Council.
 - (2) Any such notice shall be deemed to have been duly signed if it purports to bear the signature of the Chairman, or where the Authority is a Local Government Council by such other person as aforesaid.
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58. (1) Every notice, order or other document required or authorized by this Law or by any regulations made thereunder to be served on any person may be served:
 - (a) by delivering the same to such person or by delivering the same at the abode where such person ordinarily resides to some adult member or servant of his family; or
 - (b) if the abode where such person ordinarily resides is not known, by forwarding the same by registered post addressed to such person at his last known place of abode or business; or
 - (c) if the name of such person is not known, or if service cannot with reasonable diligence be effected under clause (a) or (b) of this subsection, by fixing the same on a conspicuous part of the premises in respect of which the notice, order or other document is issued.
 - (2) (a) service upon an Authority, not being a Local Government Council, shall be effected by delivering the same to or by sending it by registered post addressed to the Chairman of the Authority concerned; and
 - (b) service upon an Authority shall be effected by delivering the document to or by sending it by registered post to an officer of the Local Government Council at the principal office of the Local Government Council:

Provided that a Court may, having regard to any particular circumstances, order service on an Authority being a Local Government Council to be effected otherwise and in that case service shall be effected in accordance with the terms of that order.

Signing of
notices

Service of
notices and
documents.

- (3) A notice, order or other document required or authorized by this Law or any regulations made thereunder to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of such premises without further name or description.

PART VIII.-FINANCIAL MATTERS

Control of Finance

Authority
may accept
property or
other
assistance.

59. (1) An Authority shall be and hereby is empowered to accept any rates, money, property or other assistance for the furtherance of any of the objects of a scheme.
- (2) All moneys from whatever sources received by the Authority shall become part of the funds of the Authority.

Regulations
of finances.

60. (1) The Commissioner may direct that any particular Authority shall regulate, control and manage its own finances and in default of any such direction all sums received to the credit of an Authority shall be paid into the general revenues of Ebonyi State of Nigeria and all expenses and disbursements lawfully incurred or to be paid by an Authority shall be defrayed from the general revenue of the State and only such of the provisions of this Part as the Commissioner may direct shall apply to such Authorities.
- (2) Where the Commissioner directs that any particular Authority shall regulate, hold and manage its own finances the provisions of this Part shall apply and the Authority shall thereafter regulate, manage or control its finances in accordance with such provisions but the Commissioner may, in giving any such direction, further direct that all or any of the provisions of this Part be added to, modified, adapted or otherwise varied in respect of the Authority concerned and when such further direction is given the provisions of this Part shall be construed and read together with such further directions in relation to the particular Authority concerned and where any of such further directions are in conflict with the provisions of this Part, the provisions of such further directions shall prevail.

- (3) Where the Commissioner has given a direction under subsection (1) or further directions under subsection (2), he may, from time to time, in his discretion, revoke, add to, modify or otherwise vary such direction or further directions.

Rating

61. (1) An Authority, with the approval of the Commissioner, in exercise of its powers and duties under the provisions of this Law and to raise revenue for planning purposes may, by order require a Local Government Council or any other authority to impose, levy and collect rates, hereinafter referred to as planning rates, either in accordance with and subject to regulations made by the Authority or in accordance with and subject to the directions set out in the order so made by the Authority.
- (2) Such order:
- (a) shall prescribe the amount of the planning rate to be levied either generally throughout the area or in respect of any part thereof;
 - (b) may exempt from a planning rate any premises or class of premises; and
 - (c) shall determine the date on which the first payment of such rate shall become due.
- (3) The Local Government Council or any other authority so ordered to impose, levy and collect a planning rate shall accordingly so do and shall pay over the proceeds of the rate to the Authority concerned.
- (4) Any Local Government Council or any other authority which is not empowered under the provisions of any other written law to impose, levy and collect rates is hereby empowered to impose, levy and collect the planning rate in accordance with the provisions of this Law.
- (5) An Authority, instead of acting under the provisions of the preceding subsections, is hereby empowered, with the approval of the Commissioner, to impose, levy and collect the planning rate itself and such rate shall be imposed, levied and collected in the manner specified by the Authority.

An Authority may order rates to be imposed or itself impose rates.

The rate to
be paid
quarterly.

62. The planning rate, unless otherwise provided by the Authority by regulation or by the order requiring the imposition, levy and collection of the rate, shall be paid in advance at a place to be specified in the regulations or order or otherwise by the Authority by annual or half-yearly or quarterly instalments.

Liability for
and recovery
of rates.

63. (1) The owner and occupier of land or premises not exempt from the planning rate shall be liable for the payment of the planning rate, but the same shall be deemed to be an owner's rate and, as between the occupier and the owner of any premises shall, in the absence of any agreement to the contrary, be borne by the owner; and the amount thereof, if paid by the occupier, may be recovered by him from the owner in an action for money paid to his use, or may be deducted from any rent due or to become due in respect of the premises.
- (2) If any person fails to pay any planning rate for which he is liable within one month after the same became payable, the Authority levying the rate under subsection (2) of section 61 or the Authority so levying under subsection (5) of section 61 may recover the same by suit with costs and interest at the rate of six *per centum* from the day when such rate ought to have been paid until the day of payment.

Payment of
moneys and
deposit in
bank.

64. An Authority levying the planning rate under sub- Payment of section (2) of section 61 shall on the first day of the months of January, April, July and October in every year pay to the Authority the planning rate levied and collected as hereinbefore mentioned in respect of the quarter immediately preceding such date and such planning rate paid as aforesaid shall form part of the funds of the Authority.

Estimates

- Estimates. 65. (1) An Authority shall in every year prepare estimates containing:
- (a) an estimate of the revenue of the Authority for the next ensuing year;
 - (b) an estimate of all balances, exclusive of moneys raised by loan, which will be available for ordinary expenditure at the commencement of the next ensuing year;

- (c) an estimate of ordinary expenditure for the next ensuing year;
 - (d) an estimate of the balances of loans available and the expenditure therefrom during the next ensuing year; and
 - (e) an estimate of sums that will be required during the next ensuing year for the discharge of principal, the payment of interest and for contribution to sinking funds in respect of loans.
- (2) The financial year shall commence on the first day of April in any year and the estimates mentioned in subsection (1) shall be forwarded for approval to the Commissioner on or before the first day of December in any year.
- (3) On consideration of the estimates so submitted, the Commissioner may:
- (a) approve or disapprove such estimates as a whole; or
 - (b) disapprove of any item or items contained therein, and shall notify the Authority accordingly.
- (4) The estimates when approved by the Commissioner shall be the estimates of revenue and expenditure for the financial year for which they are made, and no expenditure shall be incurred otherwise than in accordance therewith save with the written approval of the Commissioner first obtained.
- (5) Where the Commissioner disapproves of any item or items in estimates submitted for approval, the remainder of any such estimates excluding such item or items so disapproved shall be deemed to be an approved estimate but the Authority shall not incur any expenditure or collect revenue as the case may be in respect of the item or items disapproved.
- (6) Where the Commissioner has disapproved of estimates as a whole or has disapproved of any item or items in an estimate and subsequently approves amended or varied estimates or such item or items shall be deemed to be and to have been approved item or items or approved estimates from the beginning of the financial year to which such estimates or item or items relate.
66. (1) An Authority may at any time prepare supplemental estimates to provide for unforeseen or urgently required expenditure containing:

Supplemental
estimates.

- (a) a revised estimate of the revenue for the current year; 6
- (b) a revised estimate of the expenditure for the current year; and
- (c) a statement showing how provision is therein made to meet additional expenditure. 7

(2) Such supplemental estimates shall be forwarded without delay to the Commissioner and the provisions of subsections (3), (4), (5) and (6) of section 65 shall apply to such supplemental estimates as if they were the annual estimates.

Approved
estimates
binding on
Authority.

67. Save as hereinafter provided, the Authority shall be bound by the estimates or supplemental estimates as finally approved by the Commissioner, and shall not without the sanction of the Commissioner incur any expenditure unless it is covered by an item in such estimates or supplemental estimates:

Provided that the Commissioner may authorize the expenditure of money appropriated for any purpose in the approved estimates or supplemental estimates on any other purpose therein contained, but no such expenditure shall be incurred for any purpose for which provision had not been made in such approved estimates or supplemental estimates, without the prior consent of the Commissioner, and no expenditure shall, in any case, be so incurred for any purpose in respect of which an item in the estimates or supplemental estimates relating thereto has been disapproved by the Commissioner.

Provided further that where in any financial year, it appears to the Authority that expenditure for any specified purpose is desirable, and no or insufficient provision therefor has been made in the estimates or supplemental estimates for such year, the Commissioner may approve such expenditure and the approved estimates or supplemental estimates shall be amended accordingly.

Accounts

Accounts
and audit.

68. (1) An Authority shall keep accounts of the transactions of the Authority to the satisfaction of the Commissioner.
- (2) The accounts of any Authority shall be audited in every year either by the Audit Department of Government or by a person approved by the Commissioner.

69. An Authority may, with the approval of the Commissioner, write off bad debts,

Bad debts.

Contributions to General Revenue

70. In addition to and not in derogation of the other powers in this Part conferred upon the Commissioner, where an Authority is regulating, controlling and managing its own finances, under the provisions of section 60, the Commissioner may, from time to time, order that any such Authority shall pay into the general revenue or other funds of Ibonyi State of Nigeria all or any part of its revenue or funds and thereupon the Authority so ordered shall pay such sum into the general revenue or other funds of Ibonyi State of Nigeria and the Authority shall lose all right, title and interest in such sums which shall thereupon form part of the general revenue or other funds of the State.

Commissioner may direct an Authority to pay funds into general revenue.

General

71. (1) An Authority may, from time to time, borrow at such rate of interest and for such period and upon such terms as to the time and method of repayment and security for the repayment and otherwise as may be, from time to time, approved by the Commissioner.
- (2) Any such approval may be general in respect of all or any Authorities or any class of Authority or may be specific in respect of any specified Authority or any separate transaction.
72. An Authority may buy and sell or may let, hire, lease, exchange or otherwise dispose of any property of whatever description whether movable or immovable for the purposes of its powers and duties under the provisions of this Law.
73. An Authority may accept debentures and enter into mortgages by way of security for moneys owing to the Authority.
74. (1) Subject to the provisions of this Part, all moneys paid to an Authority shall forthwith be paid into such bank or banks as may, from time to time, be approved by the Commissioner or by direction of the Commissioner be paid, in a similar manner, into any local treasury, Local Government treasury or other suitable depository.

Power of borrowings.

Power to buy and sell.

Power to accept debentures and mortgages.

Bank account.

- (2) All orders or cheques against the said account shall be signed by the chairman and, where there is a secretary to an Authority, the secretary or by such other officer or person as may be approved by the Commissioner.

Investments.

75. Subject to the provisions of this Part, money standing to the credit of an Authority may, from time to time, be invested in securities approved by the Commissioner and an Authority may, from time to time, with the like approval, sell any or all of such securities.

PART IX.-MISCELLANEOUS

Rehousing Scheme

Rehousing of
displaced
persons.

76. (1) In addition to and not in derogation of an Authority's powers to frame schemes under this Law, an Authority in framing a scheme or in addition to framing a scheme under the provisions of this Law may frame schemes for the construction, maintenance and management of such and so many dwellings and shops as it may consider ought to be provided for persons of the poorer and labouring classes who:
- (a) are displaced by the execution of the provisions of any scheme sanctioned under this Law; or
 - (b) are likely to be displaced by the execution of the provisions of any scheme which it is intended to frame, or submit to the Commissioner for approval under this Law.
- (2) Every rehousing scheme shall be submitted to the Commissioner who may either sanction it, with or without modification, or refuse to sanction it.
- (3) The Authority shall not itself construct dwellings or shops under a rehousing scheme unless it is satisfied, after due inquiry, that no other person is willing and able to construct them and is prepared to construct, maintain and manage them under the control of the Authority.

Redistribution of Holdings

77. A redistribution of holdings comprised in any scheme shall be effected in the following manner, namely by:

Redistribution of holdings.

- (a) the amalgamation for the purpose of the redistribution of all holdings, whether belonging to private owners or to public bodies, and of all State land, together with all roads, streets, backlanes and open spaces public or private, within the scheme area;
- (b) the allotment of an area in respect of roads, streets, backlanes and open spaces;
- (c) the assignment, so far as is practicable, to as many original owners as is possible, having regard to the provisions of the scheme, of one or more final holdings, equivalent or proportionate in extent and value, or both combined, to their respective original holdings;
- (d) the preservation as far as possible to each owner of such special advantages in the way of position, frontage or otherwise as were attached to his original holding;
- (e) the extinction of any existing easement and the provision of any new easement necessary for the enjoyment of any final holding assigned to any owner under the scheme; and
- (f) the payment of any compensation to individual owners for any special disadvantage in the final holdings assigned to them under the scheme and the payment of approximately equivalent amounts by individual owners in respect of any special advantage in the final holdings assigned to them under the scheme and the disposal of the sums so paid.

78. (1) Upon the notification of approval of a scheme which includes a redistribution of holdings or upon such a date as may be declared in the scheme in that behalf, the whole of the area subject to redistribution shall vest in the Authority free from incumbrances and every estate or interest in the land comprised in such area shall be extinguished: Provided that in the case of State lands, the Authority shall hold all such lands as the agent of the Government and subject to the directions of the Commissioner.
- (2) The Authority shall make in favour of each person entitled by the scheme to a final holding a fresh grant of the area

Redistribution scheme and surrendering of holdings.

comprised in such holding. Every such grant shall be made so far as is practicable on the terms and subject to the conditions on which the person to whom it is made held his original holding.

- (3) Every person entitled on the date prescribed in subsection (1) to any estate or interest in an original holding shall be deemed to have acquired a corresponding estate or interest in the final holding substituted therefor by the scheme.

Vesting of certain statutory powers in the Authority

Transfer to
the Authority
of powers of
Local
Government
Council or
Controller of
Works
Services.

79. (1) The Authority may, at any time after the publication of a declaration, in accordance with the provisions of subsection (2) of section 10, that an area is a planning area declare, by notice in the *Ebonyi State of Nigeria Gazette*, its intention of framing and carrying out a scheme with respect to such area or a part thereof or with respect to any street in such area and upon the scheme being approved the powers and duties exercisable and devolving upon a Local Government Council or other authority or the Controller of Works Services in such area or part thereof by virtue of any written law or otherwise shall be transferred to and be vested in the Authority.
- (2) Notwithstanding anything contained in subsection (1), the Authority, if it considers that the Local Government Council, other authority or the Controller of Works Services should continue in the exercise of any powers or duties transferred or vested in the Authority under subsection (1), may, with the approval of the Commissioner, call upon the Local Government Council, other authority or the Controller of Works Services, as the case may be, to continue such exercise accordingly.
- (3) A Local Government Council or other authority shall, from time to time, furnish the Authority with such particulars and information as the Authority for the due execution of the provisions of this Law may require relating to the needs of any area and in particular, but without derogating from the generality of the foregoing power with regard to the provision of new streets and open spaces, the widening or alteration of existing streets and the probable direction and nature of the development of the area.
- NB

Authorities may require others to execute parts of schemes

80. (1) Provisions may be inserted in a scheme stating who is the responsible authority for executing each portion of the scheme and in what manner the cost of the same shall be met.
- (2) Upon the approval of the scheme, the duty of carrying out the portions of the scheme as and when required by the Authority shall devolve upon such responsible authorities as aforesaid.
- (3) Provision may be made in any scheme for the execution thereof, wholly or in part, by the owner or owners of the land or premises comprised in the scheme area, subject to the control of the responsible authority or of the Authority and upon such terms and conditions as may be specified by the Authority.

Scheme may state who is to execute portion of it.

Offences

81. If any person unlawfully:
- (a) obstructs or molests any member of the Authority or any officer or servant of the Authority, or any person with whom the Chairman or appropriate officer of an Authority has entered in a contract on behalf of the Authority in the performance or execution by such member, officer, servant or person as the case may be of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Law or any regulation or scheme made thereunder; or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary for the execution of works authorized by this Law or any regulation made or scheme sanctioned thereunder; or
- (c) removes any notice fixed by the Authority on any premises, he shall be liable on conviction to a fine of Twelve Thousand Five Hundred Naira or to imprisonment for six months or to both such fine and imprisonment.

General offences.

82. Any person who:
- (a) acts in contravention of any regulation made under the provisions of this Law; or

Contravention of regulations.

- (b) being legally bound to comply with any lawful order or with the requisition contained in any notice served under this Law or any regulation made thereunder refuses or neglects to comply therewith.

shall be deemed guilty of an offence and liable, on conviction, to a fine of Twelve Thousand Five Hundred Naira or to imprisonment for six months or to both such fine and imprisonment.

Compensation
to be paid by
offenders for
charges caused
by them.

83. (1) If on account of any act or omission, any person has been convicted of an offence against this Law or any regulation made thereunder and, by reason of the same act or omission of the said person, damage has occurred to any property of the Authority, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.
- (2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Court before which he was convicted of the said offence.
- (3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Court as if it were a fine inflicted by the Court on the person liable therefor.

Regulations

Regulations by
the
Commissioner

84. (1) The Commissioner may make regulations with respect to:
- (a) the determination and adjustments of the limits of plots or estates within planning areas;
 - (b) the furtherance of the provisions and purposes of schemes or of any particular scheme; and
 - (c) any other matter which under this Law is required or permitted to be prescribed.
- (2) Regulations made under subsection (1) may be either general or specific or refer to one or more schemes, and upon publication in the Ebonyi State of Nigeria Gazette shall have the same force and effect as if they had been enacted herein.

85. An Authority may make regulations with regard to:
- (a) the imposition, levy or collection of the planning rate,
 - (b) the exemption of certain land or premises or classes of land or premises from the planning rate, and
 - (c) the date upon which the planning rate shall become due.

Regulations by
an Authority.

FIRST SCHEDULE

Section 13

SCOPE AND CONTENTS OF SCHEMES

The mention of particular matters in this Schedule shall not be held to prejudice or affect the generality of any other matter.

PART I-ROADS

1. Providing for the reservation of land for roads, the construction of new roads, improvement of existing roads, establishment of public rights of way.
2. Providing for the closing or diversion of existing roads and public and private rights of way.
3. Restricting and controlling the construction of new roads and the alteration of existing roads whether by the Authority or owners.

FIRST SCHEDULE-continued

4. Regulating the line, width, level, construction and general dimensions and character of roads whether new or existing.
5. Enabling the Authority to require an owner of land as a condition of his developing such land in any manner:
 - (a) to reserve land for such roads as the Authority may think necessary,
 - (b) to contribute to the cost of the construction of new roads or the improvement of existing roads by the Authority.
6. Providing for and generally regulating the construction or execution whether by the Authority or by owners of works incidental to the making or improvement of any road including the erection of shelters, provision of seats, planting or protecting of grass, trees and shrubs on or adjoining such road.

PART II-BUILDINGS AND OTHER STRUCTURES

1. Regulating and controlling, either generally or in particular areas, all or any of the following matters:
 - (a) the size, height, spacing and building line of buildings;
 - (b) the objects which may be affixed to buildings;
 - (c) the location of buildings, the extent of yards, gardens and cartilage of buildings;
 - (d) the purposes for and the manner in which buildings may be used or occupied including, in the case of dwelling-houses, the letting thereof in separate tenements; and

(c) the prohibition of building operations on any land or regulating such operations.

2. Reserving or allocating any particular land or all land in any particular area for buildings of a specified class or classes, or prohibiting or restricting, either permanently or temporarily, the making of any buildings or any particular class or classes of buildings on any specified land.
3. Reserving or allocating any particular land or all land in any particular area for the purpose of any industrial or trade purpose or for any specified undertaking.
4. Limiting the number of building or the number of buildings of a specified class which may be constructed, erected or made on, in or under any area.
5. Providing for the removal, demolition or alteration of buildings or works which are inconsistent with or obstruct the operation of a scheme.
6. Providing for the reservation of sites for places of religious worship, schools and public buildings and for places required for public services.
7. Providing for sanitary conditions.
8. Providing for the reservation of sites for housing schemes.
9. Providing for slum clearance in specified areas.

PART III.-AMENITIES

1. Providing for the reservation of lands as open spaces, whether public or private, and for burial grounds.
2. Providing for the reservation of views and prospects and of the amenities of places and features of natural beauty or interest.
3. Providing for the preservation of buildings and objects of artistic, architectural, archaeological or historical interest.
4. Providing for the preservation or protection of forests, woods, trees, shrubs, plants and flowers.
5. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, on any vehicle, boat, aircraft or other movable object, whether on land, or in or on water or in the air, of all or any particular forms of advertisement or other public notices.
6. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.
7. The prohibition, regulation and control of the deposit or disposal of waste materials and refuse.

PART IV.-PUBLIC UTILITY SERVICES

Facilitating the construction of works in relation to lighting, water supply, sewerage, drainage, sewage disposal and refuse disposal or other public utility services.

PART V.-TRANSPORT AND COMMUNICATION

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.
2. Allocating sites for use in relation to transport and providing for the reservation of land for that purpose.
3. Providing for the establishment, extension and improvement of telegraphic, telephonic or wireless communication, allocating sites for use in relation to such communication and providing for the reservation of land for that purpose.

PART VI.-MISCELLANEOUS

1. Declaring the persons by whom and the manner in which the cost of the execution of works (whether of construction, demolition, removal or alteration) in pursuance of the scheme are to be borne.
2. Subject to the provisions of this Law, declaring the notices to be served for the purposes of the scheme by the Authority and the persons on whom, the manner in which and the times at or within which such notices are to be served.
3. Subject to the provisions of this Law, declaring the manner in which and the times at or within which notice for the purposes of the scheme may be served on the Authority by other persons.
4. Providing for and regulating the making of agreements for the purpose of a scheme by the Authority with owners and other persons and by such persons with one another.
5. Dealing with the use or disposal of land acquired under the provisions of this Law.
6. Prohibiting the subdivision of land until a plan showing the subdivision and proposed access to the land has been approved together with an estate layout plan if called for by the Authority.
7. Making any provisions necessary for:
 - (a) adjusting and altering the boundaries and areas of any lands, roads or rights of way;
 - (b) effecting such exchanges of land or cancellation of existing subdivision as may be necessary or convenient for the purposes aforesaid.
8. Providing for and regulating the construction, alteration, removal and use of railways, pipe-lines, telegraph and telephone lines, electric current transmission lines, drainage or irrigation channels, aerial cable ways and their ancillary structures.
9. Preventing the pollution of streams, watercourses, rivers, wells, lagoons and harbours.

FIRST SCHEDULE-continued

10. Works ancillary to or consequent on a scheme.
11. Any other matter, not hereinbefore mentioned, necessary or incidental to a scheme or its administration.

SECOND SCHEDULE

ORIGINATING SUMMONS

Section 49.

In the High Court of Ebonyi State of Nigeria

In the Matter of the Town and Country Planning Law.

Let all parties attend at.....on the.....day of.....
 20..... at.....o' clock in the.....noon on the hearing
 of an application on the part of the chairman (or other appropriate officer) of
 the.....Planning

SECOND SCHEDULE-continued

Authority for the determination of the following matters:

.....

If any person fails to comply with these instructions, the Court may order him to pay the
 costs of the proceedings.

DATED the.....day of.....20.....

.....
 (Signature of Chief Judge or Judge)

This summons was taken out by the chairman (or other appropriate officer) of the
Planning Authority.

To:

.....

(Insert names of all parties interested in questions to be decided.)

TOWN AND COUNTRY PLANNING LAW
SUBSIDIARY LEGISLATION

Note

The appointments of Planning Authorities, the Orders of Declaration of Planning Areas and of Approval of Planning Schemes are not printed in full in this edition of the Laws of Ebonyi State of Nigeria. The following tabulation of them is printed. In it are set out by Provinces, which are in alphabetical order, the titles of the Planning Authorities appointed under sections 4 and 5 of the Law, the areas declared under section 10 and the schemes approved under section 18, which were in force on the 1st October, 1963, together with reference to the publication of the appointments, declaration of areas and approval of schemes.