

CHAPTER 41 - DEVELOPMENT BOARD AN EDICT TO ESTABLISH A DEVELOPMENT BOARD FOR THE STATE

[31 December 1983]

PART I—PRELIMINARY

1. This Edict may be cited as the State Development Board Citation. Edict.
2. In this Edict, the following words and expressions shall be, unless the context otherwise requires, have the meaning assigned to them here:—

"assessed value" in relation to a tenement means the capital annual or unimproved value at which the tenement is, for the time being, assessed;

"Board" means the State Development Board established by section 3 of this Edict;

"catchment area" means an area of land or water from which water contributes to the supply of a waterworks;

"Chairman" means the Chairman of the State Development Board;

"Commissioner" means the State Commissioner who, for the time being, is charged with responsibility for Works, Housing, Lands and Surveys, matters;

"Division" means an administrative, accounting or technical unit established by the Board as such, under section 7 of this Edict or deemed to be established by the Board under this Edict for the purpose of carrying out its functions under this Edict;

"dwelling house" means premises used wholly or mainly for the purpose of private dwelling, with or without any garage,

out-house, garden, compound, yard, forecourt or other appurtenances belonging to or usually enjoyed with it;

"electric line" means any wire, conductor, cable or other medium for transmitting or distributing electric current including any earth conductor, guard, instrument, insulator, casing, or standard or other pole or other support for the electric line, or any other thing used in conjunction with the medium for the transmission or distribution of electricity;

"excess consumption" means:—

(a) in the case of a tenement in respect of which general water rate is not payable, quantity of water ascertained by meter as having been consumed in the tenement;

(b) in the case of a tenement in respect of which general water rate is payable, quantity of water ascertained by meter as having been consumed in the tenement in excess of such monthly allowance as may be prescribed;

"gathering ground" includes any area of land or water which contributes to the supply of any

waterworks;

"Government" means the Government of the State;

"Governor" means the Governor of the State;

"governmental body" means a government board, agency, institution or a statutory corporation or government-owned company and any Agency of the United Nations as well as any other accorded diplomatic status in Nigeria or approved for the purpose;

"Health Officer" includes a Medical Officer of Health, a Health Inspector or other person acting under the authority, of the Medical Officer of Health;

"main transmission line" means all extra high tension cables and overhead lines being essential parts of the Board's distribution system, transmitting electricity from a generating station (or other source of electric power) with any step-up or step-down transformers and switch gear necessary to, and used for, the contact of the cables or overhead lines, and any buildings forming part of the system as may be required to accommodate or hold the transformers and switch-gear;

"Member" means a member of the Board, including the Chairman;

"meter" means an appliance or instrument used for measuring, or ascertaining the amount of water or electricity taken or used for a waterworks or power generating station respectively;

"metered supply" means supply by way of serving or undertaking where the supply of water or electricity is measured by meter;

"occupier" means the person in occupation of tenement or part thereof, but does not include a lodger;

"owner" includes:—

(a) the person for the time being receiving the rent of the tenement in respect of which the work is used, whether on his own account or agent trustee for any other person, or who would receive the rent if such tenement were let to a tenant;

(b) the holder of a tenement from the State whether under certificate of occupancy, lease, licence or otherwise;

"private supply" means, in the case of:—

(a) water, supply by means of a service to a tenement for use solely within the area of the tenement; and

(b) electricity, supply by means of distribution to, or undertaking in, a tenement, for use solely within the area of the tenement;

"public fountain" means a fountain, stand-pipe, valve, tap, or other device, natural or

constructed, from which water squirts or is made to squirt;

"public supply" means:—

(a) in the case of water to the public by means of main pipelines, fountain, (valve), tap or other appliances or by means of water bowser or other method, other than through a meter; and

(b) in the case of electricity, supply by means of main transmission lines and distribution lines to public area, institutions, buildings, streets or for public consumption or other public use;

"rural area" means an area in the State where the National Electric Power Authority does not supply electricity;

"service" means:—

(a) in the case of water, a system of waterworks, boreholes, wells and fountains and includes severally and collectively all the complementary pumps, plants, equipment, instruments, main and distribution pipelines, taps and civil constructions which are all connected with the production (or procurement) and supply of water; and

(b) in the case of electricity, a system of the source of electric power and includes severally and collectively all the necessary civil constructions, main transmission and distribution lines, transformers, plants, meters and all other equipment and instruments, connected with the production and supply of electricity;

"State" means the Gongola State of Nigeria;

"street" includes a road, highway, bridge, thoroughfare, access road, avenue, alley, square, court or other passage or place over or to which the public have right of way or access, as the case may be;

"tenement" means any land (including island, cave, lake or other water-surface), with or without buildings on it, which is held or occupied as a distinct or separate holding or tenancy, or any wharf, pier or jetty similarly held or occupied;

"undertaking" means the system of all the materials, plants, equipment constructions, instruments and other devices used together in the production, supply and distribution of water or electricity; and

"waterworks" means all reservoirs, ponds, wells and boreholes and other subterranean water sources which are used with any dam, weir, tank, cistern, tunnel, conduit, aqueduct, fountain, main-pipe, sluice, valve, pump, engine, filter-bed, treatment plant, or other structure or appliances constructed or used for the production storage, supply, distribution, measurement or regulation of water.

PART II—ESTABLISHMENT AND COMPOSITION

3.—(1) There is hereby established a Board which shall be known as the Gongola State

Development 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.

4. —(1) The Board shall be composed of the following members

(a) a full-time Chairman;

(b) three members of the public, who shall be appointed by the Governor; and

(c) three other members as follows:—

(i) the Permanent Secretary of the State Ministry of Finance and Economic Development;

(ii) Solicitor General and Permanent Secretary of the State Ministry of Justice; and

(iii) the Permanent Secretary, Ministry of Works and Transport.

(2) The Chairman shall in his capacity as Chairman have no other functions in relation to the Board except as otherwise expressly conferred upon him by this Edict or by any other enactment.

(3) The Chairman shall be charged with the general oversight on behalf of the Board of the implementation of the Board policy decisions between Board meetings.

(4) Members of the Board shall be responsible for laying down general policies in respect of the execution of all the functions of the Board under this Edict.

(5) The procedure of the Board shall be as specified in the First Procedure. Schedule to this Edict. Schedule.

5. —(1) A member shall hold office for a period of three years and shall be eligible for reappointment.

(2) There shall be paid out of the funds of the Board to each member not being a public officer such remuneration whether by way of salary, fees or allowances as the Governor may determine.

(3) The Governor may revoke the appointment of a member if he (the Governor) is satisfied that such a member:—

(a) has absented himself from three consecutive meetings of the Board in respect of each of which he did not obtain the permission of the Chairman;

(b) has become bankrupt or made an arrangement with his creditors with an intention to deceive;

(c) has been convicted of an offence involving or necessarily implying fraud or dishonesty and has undergone a sentence of imprisonment or fine therefrom;

(d) is incapacitated by physical or mental illness from performing his functions as a member;

(e) has such financial or other interest in the operations of the Board or otherwise as in the opinion of the Governor is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) is otherwise unable or unfit to discharge the function of a member.

(4) Notwithstanding anything contained in the instrument by which a member is appointed, a member may resign his office as a member by notice in writing to the Governor, and upon receipt of such resignation by the Governor the appointment of such a member shall be terminated.

(5) When a member is temporarily absent from Nigeria or is absent on leave within Nigeria or is temporarily incapacitated from performing the functions of his office, the Governor may appoint any other person to hold temporarily the office held by such incapacitated or absent member during the period of such incapacitation or absence and the functions of such member shall devolve upon the person so temporarily appointed.

(6) No act or proceedings of the Board shall be questioned on account of any vacancy among its members or on account of the appointment of any member being defective.

6.—(1) The Board shall have a General Manager and a Secretary both of whom shall be appointed by the Governor.

(2) The General Manager shall be the Chief Executive of the Board, with overall responsibilities for carrying out the policies and decisions of the Board as well as the routine administration of

the Board in accordance with the provisions of this Edict and of any other written law.

(3) The General Manager shall in executing the policies and decisions of the Board, be assisted by the Secretary and the officers in charge of Divisions.

(4) The Secretary shall carry out his functions in accordance with the provisions of this Edict and, in particular, he shall:—

(a) take down and keep minutes of the meetings of the Board;

(b) conduct correspondence and keep records of the Board;

(c) have custody of the Common Seal;

(d) assist the General Manager in the routine administration of the affairs of the Board; and

(e) perform all other duties as may from time to time be assigned by the Board or by the General Manager.

(5) The General Manager may delegate to the Secretary (or with the approval of the Board, to a Divisional Head) any aspect of the routine administration of the affairs of the Board.

(6) The power to exercise disciplinary control over the General Manager and the Secretary, and to determine their conditions of service shall be vested in the Governor and shall also be subject

to the provisions of any rules and regulations that may be made under the provisions of sub-paragraph (d) of paragraph 2 of Part I of the Second Schedule.

PART III—OBJECT, FUNCTIONS AND POWERS

7.—(1) The object of the Board is the consistent formulation and execution of schemes for the provision of water, electricity and the promotion and provision of housing estates in Gongola State; accordingly, the Board shall establish Divisions to facilitate the attainment of the said object.

(2) The Divisions to be established under subsection (1) of this section shall include:—

(a) Water Division, to be headed by an officer of the Board of the rank of Chief Water Engineer;

(b) Electricity Division, to be headed by an officer of the Board of the rank of Chief Electrical Engineer;

(c) Housing Division, to be headed by an officer of the Board of the rank of Chief Building Engineer or such other equivalent rank, in a discipline related to building generally, as the Governor may approve.

8. The functions and powers of the Board shall be as specified in the Second Schedule to this Edict.

9. —(1) Notwithstanding any of the provisions of the Second Schedule the Governor, after consultation with the Commissioner may:—

(a) give to the Board such general or specific directions as to the discharge by the Board of its functions under this Edict as appear to the Governor to be necessary to ensure conformity with the economic policy of the Government and the Board shall give effect to any such directions;

(b) give to the Board specific directions for the purpose of remedying any defect which may be disclosed in the operations of the Board and the Board shall give effect to any such directions.

(2) The power conferred by subsection (1) of this section on the Governor shall include power to give directions prohibiting or limiting any expenditure proposed to be incurred by the Board which appears to the Governor to be excessive or unnecessary.

(3) The Governor may direct that the Board shall pay all or any part of its revenue or funds standing to its credit and not for the time being required for the purposes of its operations into the general revenue or other funds of the State and thereupon the Board shall forthwith pay such sum in the manner directed and the Board shall lose all right or title to and interest in such sum which shall thereupon form part of the general revenue or other finances of the State.

10.—(1) The Edicts specified in the Third Schedule to this Edict, are hereby repealed:—

Provided that any regulations made under the enactments and

in force immediately before the commencement date of this Edict shall continue in force as from the date as if made by the Board under this Edict, until such regulations are revoked or repealed under the provisions of this Edict, and accordingly reference in any such regulations to water authority, or prescribed authority or to any other authority or person, shall, with the necessary adaptations and modifications, be construed as reference to the Board.

(2) The Gongola State Water Board, the Gongola State Housing Corporation and the Gongola State Rural Electrification Board, established by the said repealed Edicts are hereby dissolved.

(3) From the commencement of this Edict there shall vest in the Board by virtue of this Edict, and without further assurance of the assets, funds, resources and undertaking which immediately before the commencement of this Edict were vested in, or in any way belonged to, any of the Statutory Bodies dissolved by subsection (2) of this section (which Bodies are hereinafter referred to as "the dissolved Statutory Bodies").

(4) All the rights, interests, obligations and liabilities of the dissolved Statutory Bodies, existing:—

(a) under any contract or instrument whatsoever subsisting immediately before the commencement of this Edict; or

(b) at law or in equity apart from any contract or instrument shall, as from the date of this Edict be deemed to be, and by virtue of this section be assigned to or vested in the Board.

(5) Any contract or instrument as stated in paragraph (a) of subsection (4) of this section shall be as of full force and effect in favour of or against the Board and shall be enforceable as fully and effectually as if, instead of the appropriate body being one of the dissolved Statutory Bodies, the Board had been named therein or had been a party thereto.

(6) The Board shall be subject to all the obligations and liabilities to which the dissolved Statutory Bodies were subject immediately before the commencement of this Edict and all other persons shall, as from the commencement of this Edict, have the same rights, powers and remedies against the Board as they had against the dissolved Statutory Bodies immediately before the commencement of this Edict.

11. Any proceeding or cause of action pending or existing immediately before the commencement of this Edict by or against any of the dissolved Statutory Bodies in respect of:—

(a) any right, interest, obligation or liabilities of the dissolved Statutory Bodies or of any other party; and

(b) any undertaking or scheme of any of the dissolved Statutory Bodies, may be continued and enforced by or against the Board as it might have been so enforced against the appropriate dissolved Statutory Body if this Edict had not been made.

12. (a) The funds and resources of the Board shall consist of:—

(i) all the funds, assets, resources, undertaking, rights and interests of the dissolved Statutory Bodies vested in the Board by section 10 of this Edict; and

(ii) all funds, assets, resources, undertakings, and such rights and interests as the Board may from time to time acquire;

(b) such sums as may from time to time be lent, granted or appropriated to the Board, by the State Government, Federal Government of Nigeria or any Government institution;

(c) all property and investments acquired by or vested in the Board and all money, dividends and other benefits derived, earned or arising therefrom;

(d) all sums from time to time received by or falling due to the Board in respect of the repayment of any loan or advance made by the Board or by the dissolved Statutory Bodies or the interest, if any, payable in respect of such loan or advance;

(e) all charges, rates, rents, and other payments accruing to the Board for the services it renders; and

(f) all other sums of money or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its functions and powers.

PART V—FINANCIAL PROVISIONS

13.—(1) The Board may, with the consent of the Governor Power to borrow whether by way of mortgage or otherwise and on such terms and conditions as the Board may determine, such sums of money as may be required in the execution of the functions conferred on the Board by this Edict or by any other written law.

(2) A person lending money to the Board shall not be bound to acquire whether the borrowing of the money is within the power of the Board.

14. —(1) If Government gives any loans to the Board at any time in accordance with the provisions of this Edict, the Board shall if so required by the Governor issue to the Government a debenture or debentures of nominal value equivalent to the sum lent.

(2) Debentures issued in accordance with the provisions of this section shall bear interest at such rates, and from such dates as the Governor may specify.

15. Subject to the approval of the Governor the Board may:—

- (a) invest money standing to its credit and not for the time being required for the purpose of its functions in stocks, shares, debentures or any other securities; and
- (b) sell, dispose of or otherwise deal with all or any of such securities.

16. The following charges shall be defrayed out of the revenues of the Board for any financial year:—

- (a) salaries, fees and allowances of members;
- (b) salaries, remuneration, fees, allowances, pensions, gratuities and other retirement benefits of the officers employees and agents of the Board including technical or other advisers of or consultants to the Boards;
- (c) all working and management expenses of the Board and all charges relating to its works, assets and other properties including proper provisions for depreciation and renewal of assets;
- (d) such expenses or minor works of capital nature as the Board may deem necessary;
- (e) such sums of money including compensation, which may be payable by the Board to any person or authority under the provisions of this Edict or of any other law;
- (f) taxes, rates and other levies payable by the Board under any applicable law;
- (g) interest on any loan raised by the Board;
- (h) sums of money required to be transferred to any sinking funds or otherwise set aside for the purpose of making provisions for the redemption of debentures, stocks, or other securities or for the repayment of other loans; and
- (i) such other sums of money as the Government may approve for payment out of revenue account of the Board in respect of any financial year.

17. Subject to the provisions of subsection (3) of section 9 the balance of the revenue of the Board after defraying the charges mentioned in section 16 shall be applied for the creation, for the purposes of the Board, of a reserve fund or such other funds as the Governor may approve.

PART VII—ACCOUNTS AND REPORTS Accounts

18.—(1) The Board shall:—

- (a) ensure that its finances are effectively managed;
 - (b) cause to be kept proper accounts and reports in respect of its functions under this Edict; and
 - (c) prepare in respect of each financial year a statement of accounts in such form as the Commissioner may approve.
- (2) The said annual statement of accounts shall be a fair and accurate statement of the financial position and of the results of the operations of the Board for the financial year to which it

relates.

(3) The said annual statement of accounts shall be audited by auditors to be appointed annually by the Commissioner after consultations with the Director of Audit of the State, and the

renumeration to be paid by the Board to the Auditors so appointed shall be approved by the Commissioner.

(4) As soon as the said annual statement of accounts has been audited, the Board shall forward to the Commissioner a copy of the said statement of accounts together with a copy of the report made by the auditors.

(5) Notwithstanding the provisions of subsection (3) of this Section, the Director of Audit of the State shall have the right to audit the accounts of the Board at such times he deems fit.

19.—(1) Where, upon considering any audit report on accounts Power of
or in any other case, the Commissioner is satisfied that:—

(a) any sum due to the Board has not been duly brought to surcharge, account by any person by whom such sum ought to have

been brought into account; or

(b) a deficiency, loss or destruction of moneys or any other property of the Board occurred by reason of the negligence, breach of official duty or other misconduct of any person, the Commissioner may surcharge the amount of such loss, or deficiency of the value of such property lost or destroyed upon the person aforesaid whether he be a member of the Board or any officer or other employee or agent of the Board.

(2) Before exercising any of his powers under subsection (1) of this section the Commissioner may by writing under his hand appoint a person to conduct an inquiry for the purpose of determining the cause, extent or value of the deficiency, loss or destruction in subsection (1) of this section and for this purpose, the person appointed may take evidence and examine witnesses upon oath or affirmation, (which oath or affirmation that person is hereby empowered to administer) issue a summons requiring all such persons as he may deem fit to appear before him at a time and place to be stated in such summons and to produce all such books, records, accounts, and other documents and materials as he may consider necessary for the purpose of the inquiry.

(3) If the Commissioner decides to surcharge any amount upon any person under subsection (1) of this section he shall cause a notice to be served upon him, or on his legal representatives in the event of his death, requiring him or his representative to pay the amount surcharged within such period as may be specified therein.

(4) Notwithstanding any of the provisions of subsection (3) of this section no liability to

surcharge shall be incurred by any officer, other employee or agent of the Board, who can prove to the satisfaction of the Commissioner that he acted in pursuance of and in accordance with the terms of a resolution of the Board or of any Committee duly appointed under this Edict, or on lawful instructions of a superior officer, or agent of the Board.

20. Any amount notified as a surcharge in accordance with the provisions of subsection (3) of section 19 shall be a debt to the Board, and may be sued for and recovered in any court of competent jurisdiction at the suit of the Commissioner.

21. Any person who is aggrieved by any decision of the Commissioner to surcharge any amount upon him, may, if the decision relates to an amount exceeding two thousand naira, within thirty days of such decision, appeal to the High Court.

22. The Board shall, within six months after the end of each financial year, submit to the Commissioner a report of the operations of the Board for that financial year in such form and containing such particulars as the Commissioner may direct.

23. The Board may, with the approval of the Governor write off bad debts.

PART VII—MISCELLANEOUS

24.—(1) Nothing in this Edict shall preclude any fire authority or fire brigade from abstracting water, for the purpose of the prevention or control of fire, from any public fountain, service or waterworks of the Board.

(2) Water shall not be abstracted by any fire authority or fire brigade for the purpose of testing any fire fighting appliance except with the consent of the Board, which consent shall not be unreasonably withheld.

(3) No charge shall be made for water supplied by the Board under subsections (1) or (2) of this section.

(4) Any main, pipe, valve, hydrant, service or other waterworks required by any fire authority or fire brigade in the discharge of its functions to prevent and control fire shall be provided by the Board upon full payment therefore, but such main, pipe, valve, hydrant, service or other waterworks shall vest in the Board in perpetuity and shall be maintained and renewed by the Board at the expense of such fire authority or fire brigade.

(5) In this section the expression "fire authority" and "fire brigade" means any authority or body of firemen respectively constituted, organised or established under written law.

25. —(1) Any contract or instrument which, if entered into or executed by a person not being a body corporate would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorised by the Board for that purpose.

(2) Any document purporting to be executed or issued under the seal or on behalf of the Board shall unless the contrary is proved, be deemed to be a document so executed or issued as the case may be.

26. Service upon the Board of any notice, order or other document may be effected by delivering or sending the same by registered post to the Secretary of the Board.

27. No execution or attachment or process in the nature thereof shall be issued against any waterworks or property of the Board, but any sums of money which may be the judgement of any court awarded against the Board shall, subject to any directions given by the Board be paid from the funds of the Board.

28. —(1) No suit shall be commenced against the Board until Notice to one month has elapsed since a written notice to commence the sue-same shall have been served upon the Board by the complainant or his agent.

(2) A notice under subsection (1) of this section shall state the cause of action, relief sought and the name and place of abode of the complainant.

29. The Governor may make regulations for carrying into effect the provisions of this Edict.

30. Waterworks vested in or the property of the Board shall not be regarded as hereditaments or tenements to be valued for rating purposes under any law.

31.—(1) Subject to subsection (3) of this section any office or institution which immediately before the commencement of this Edict was established and charged with any functions by virtue of the Edicts establishing the dissolved Statutory Bodies or any other law, shall be deemed to have been duly established and shall continue to be charged with such functions until other provisions are made, as if the office or institution was established and charged with the function by virtue of this Edict or in accordance with the provisions of any regulations made thereunder.

(2) Subject to subsection (3) of this section any person who immediately before the commencement of this Edict held office by virtue of the Edict establishing any of the dissolved Statutory Bodies or any other law in force immediately before the commencement date shall be deemed to be duly appointed to that office by virtue of this Edict or by any authority by whom appointments to that office shall fall to be made in pursuance of this Edict.

(3) The provisions of subsections (1) and (2) of this section shall operate so however that the continued existence of such offices, institutions and appointments is not inconsistent either directly or by necessary implication with the provisions or tenor of this Edict.

32. Any contract or other arrangement entered into by any person or authority on behalf of the dissolved Statutory Bodies before the commencement of this Edict shall have effect as if the contract or arrangement was entered into on behalf of the Board by the appropriate person or

authority having power to do so under or pursuant to this Edict.

33.—(1) No person shall construct any waterworks without the Construction approval of the Commissioner. works61"

(2) This section shall not apply to the construction of a well or a borehole having a diameter not exceeding 1.22 meters and a depth not exceeding 61 meters.

(3) Notwithstanding the provisions of subsection (2) of this section no person shall pump water or permit artesian water to flow from a well having a diameter not exceeding 1.22 meters and depth not exceeding 61 meters or from any borehole within two kilometers of a waterworks, unless permitted in writing by the Commissioner.

(4) The Commissioner may by notice in the State Gazette specify any area being further than two kilometers from any waterworks, where water shall not be pumped or artesian water permitted to flow from any well or borehole without his permission in writing.

(5) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred naira or imprisonment for a term not exceeding six months.

34. Any person who:-

(a) wilfully or negligently damages any waterworks, public fountain, service or meter;

(b) unlawfully draws off, or diverts water from any waterworks, public fountain, stream or water by which any waterworks are supplied; or

(c) pollutes water in any waterworks, public fountain, stream, well, borehole or allows any foul liquid, gas or other noxious or injurious matter to enter into any such water or service connected therewith, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred naira or to imprisonment for a term not exceeding six months for the first offence and for every day thereafter during which the offence continues after notice in writing requiring the same to be stopped, a penalty of fifty naira and a term of imprisonment not exceeding one month.

35.—(1) Any person who wilfully or negligently misuses, wastes, or causes or allows to be misused or wasted any water or electricity passing into through, upon, or near any tenement shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred naira or to a prison term not exceeding one month.

(2) Any person who alters or, causes or permits to be altered any service without the consent of the Board or contrary to any regulations made under this Edict, shall be liable on conviction to

a fine not exceeding one hundred naira or to imprisonment for a term not exceeding one month.

36.—(1) Any person who:—

(a) alters or causes or permits to be altered any service with intent to avoid the accurate measurement or register of water or electricity or with intent to obtain greater supplies of water or electricity that he is entitled to, or to avoid payment thereof; or

(b) wilfully or negligently damages, alters or causes or permits to be damaged or altered any meter or service shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four hundred naira or to imprisonment for a term not exceeding four months.

(2) Any meter or service so altered or damaged shall be replaced by the Board at the expense of the person convicted, and the cost of such replacement or repairs may be recovered upon the order of a court in the same manner as any penalty may be recovered upon conviction.

37.—(1) Any person who puts, or allows to be put or to remain or to accumulate on any tenement owned or occupied by him or his servants, or who fails to remove or to cause to be removed or to take such steps as may be necessary to prevent, upon notice in writing from the Board, foul, noisome or injurious matter, or any earth, deposit or excavated materials in such manner or place that it may be washed, fall or be carried into any waterworks or the gathering grounds thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four hundred naira or to imprisonment for a term not exceeding four months.

(2) In respect of any subsequent period during which such matter, earth, deposit, excavated materials or any other injurious matter is allowed to remain after due notice from the Board requiring the same to be removed, a person shall be liable on conviction to a fine of fifty naira with imprisonment for one month for each day whilst the offence continues.

38. Any person who:—

(a) bathes or washes in any part of any waterworks;

(b) throws or causes to enter therein, any horse, dog, goat, pig, other animals or, any bird, material or thing; or

(c) wrongfully opens or closes any lock, cock, valve, sluice or manhole belonging to any waterworks;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four hundred naira or to imprisonment for a term not exceeding four months.

FIRST SCHEDULE

PROCEDURE FOR MEETINGS

1. (a) The Board shall hold such meetings as may be necessary for the due fulfilment of its functions so however that it shall hold not procedure, less than four meetings in every year;
 - (b) At a meeting of the board:–
 - (i) the Chairman shall, if present, preside; and
 - (ii) if and so long as the Chairman is not present or if the office of Chairman is vacant members present shall choose one of their number to preside;
 - (c) Every question at a meeting of the Board shall be determined by a majority of the votes of members present and voting on the question and in the case of any equal division of votes the member presiding shall have a second or casting vote
 - (d) Any six members of the Board may by notice in writing signed by them request the Chairman to call a special meeting of the Board for the purpose set out in such notice and the Chairman shall thereupon call a special meeting.
2. Five members (including the Chairman or the member presiding and two ex-officio members) shall form a quorum at any meeting of the Board.
- Bathing, washing, entry of animals.

3. Where upon any occasion the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt such person to be a member for such meeting or meetings as may be required and such person whilst co-opted shall have all the rights and privileges of a member save that he shall not be entitled to vote on any question.

4—(1) The Common Seal of the Board shall be authenticated by the seal- signature of the Chairman or some other member authorised by the Board to act in that behalf and the signature of the Secretary of the Board.

(2) Judicial notice shall be taken of the Common Seal of the Board and every document purporting to be an instrument made by the Board and to be sealed with the Common Seal of the Board shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

5. Subject to the provision of this Edict, the Board may make standing orders for the purpose of regulating its own proceedings.

SECOND SCHEDULE

PART I—GENERAL ORDERS

1.—(1) The Board shall ensure availability of equipment and staff in such numbers and categories as are necessary for the efficient execution of its functions under this Edict.

(2) Subject to sub-paragraph (c) of this paragraph the Board may employ or dismiss such officers and employees as it may consider necessary for the proper and efficient conduct of its business upon such terms and conditions as the Board may determine.

(3) The Board shall not employ or dismiss any officers or employee whose salary is equal to or in excess of the prescribed salary without the approval in writing of the Governor.

(4) The Governor may by order determine the prescribed salary for the purpose of sub-paragraph (c) of this paragraph.

2. The Board shall:-

(a) grant pensions, gratuities, or retiring benefits to any of the officers of employees of the Board and to their dependants and may require officers and employees to contribute to any pension or contributory scheme;

(b) grant loans to officers and employees for such purposes as the Board may approve; and

(c) provide welfare facilities to its officers and employees;

(d) subject to the approval of the Governor make rules and regulations with respect to the appointments, promotion, transfer, dismissal, exercise of disciplinary control, payment of pensions, gratuities and retiring benefits.

3. The Board may, subject to the approval of the Governor make regulations for all or any of the purposes following:-

(a) prescribing any fee, rate or anything to be prescribed generally and scribe fees for the better carrying out of the purposes and provisions of this and fines-Edict; and

(b) specifying in such regulations a fine not exceeding one thousand naira or imprisonment for the contravention of any such regulations.

4. Subject to the provisions of paragraph 5 of this Schedule the Board may appoint one or more Committees to advise it on or take any other action as to:-

(a) the initiation, execution, administration or progress of any project, scheme or activity which the Board may undertake or in which it may participate; or

(b) for any other purpose, whether general or specific relating to the functions of the Board, which in the opinion of the Board is better regulated or managed by means of a Committee.

5. The Board may on such terms and conditions as it may deem fit Delegation delegate to a Committee appointed under paragraph 4 of this Schedule restriction, any of its functions under this Edict;

Provided that such delegation shall not include:-

(a) making extraordinary expenditure;

(b) borrowing money; and

(c) making standing order, rules and regulations.

6. The composition, tenure of office and remuneration of members of the Committees appointed pursuant to paragraph 4 of this Schedule shall be determined by the Board with approval of the Commissioner.

7. A Committee appointed under paragraph 4 of this Schedule may include persons who are not members or officers and employees of the Board but who possess such special qualification or experience as in the opinion of the Board will prove beneficial to the work of the Committee.

PART II—FUNCTIONS AND POWERS OF THE BOARD IN RESPECT OF WATER SUPPLY AND THE DEVELOPMENT OF WATER RESOURCES

1. Subject to the provisions of this Edict, it shall be the duty of the Board:—

(a) to control and manage all waterworks vested in the Board under this Edict;

(b) to establish, control, manage, extend and develop waterworks as the Board may consider necessary for the purpose of providing wholesome, potable, water for the consumption of the public, and for domestic, trade, commercial, industrial, scientific and other uses;

(c) to ensure that adequate wholesome water is supplied to its consumers regularly and at such charges as the Board may from time to time determine;

(d) to conduct or organise the conduct of research in respect of water supply, water development and matters connected therewith and submit the results of such research to the Commissioner for the purposes of formulation of policy relating to the supply, development and utilisation of water; and

(e) to develop, maintain and beneficially exploit water resources both natural and artificial.

2. Subject to the provisions of this Edict, the Board shall have power to:—

(a) construct, reconstruct, maintain and operate waterworks, public fountains and all other stations, buildings and works necessary for the discharge of its functions under this Edict;

(b) extract water from any lake, dam spring, stream or from any other natural source for the purposes of its functions;

(c) extract water from underground sources by means of sinking boreholes, wells or artesian wells and the construction of their supporting structures;

(d) examine any surface or underground water for the purpose of determining its productive quality and quantity including the existence and extent of pollution, the cause of such pollution and remedies thereof;

(e) enter into any land or premises at any time of the day for the purpose of laying, examining, repairing or removing any water pipe or hose provided that before entry is made into any such

land or premises, notice shall first be given to the owner or occupier thereof;

(f) enter any land or premises after giving notice where practicable, to the owner or occupier, for the purpose of:—

(i) inspecting any service or meter to ascertain whether there is any wastage, obstruction or damage to, other fault with the water, service, meter or anything connected therewith;

(ii) laying pipes or installing meter or other instruments or appliances;

(iii) ascertaining the amount of water taken or used; and

(iv) connecting, disconnecting or otherwise controlling the supply of water to a tenement;

(g) diminish, withhold or suspend, stop, turn off or divert the supply of water through or by means of a water service stop-cock, valves, sluices, conduits, aqueducts and the like, either wholly or partly, whenever the Board deems it necessary so to do;

(h) enter into any commitments, agreements, or to other arrangements in respect of the provisions, distribution, supply or sale of water; and

(i) enter into contracts for the construction, extension and development of waterworks, public fountains and other water services and the supply of materials connected therewith.

3.—(1) Whenever it appears to the Board that any land in the State is likely to be needed for the purposes of any waterworks the Board, may, by its servants and agents together with all necessary workmen enter upon such land:—

(a) survey and take levels of the land;

(b) dig or bore under the subsoil; and

(c) do all other acts necessary to ascertain whether the land is adapted for such purposes.

Provided that no such agents, servants or workmen shall enter such land unless at least seven days notice has been given to the owner or occupier.

(2) As soon as conveniently may be after any entry made under sub-

paragraph (a) of this paragraph the Board shall pay compensation for all damage arising out of the exercise of the powers conferred by that subparagraph.

(3) In the case of dispute as to the amount of compensation payable under this paragraph such dispute shall be determined by the High Court.

PART III—FUNCTIONS AND POWERS OF THE BOARD IN RESPECT OF HOUSING

Functions. 1.—(1) The functions of the Board shall be to take over, acquire, hold, develop, manage, sell, lease, let, mortgage or pledge landed property in the State and elsewhere and do all other things that will foster the provisions, development and maintenance of residential, office, industrial and commercial accommodation in the State, and for this purpose the Board may, either alone or in partnership with another person or body, provide capital, research and other facilities for the provision, development and maintenance thereof.

(2) The Board shall give priority to the provision of adequate residential accommodation in the State.

2. Subject to the provisions of this Edict or of any other law the Board shall have power to:—

- (a) take over and hold, acquire and develop land or any estate or interest in land;
- (b) take over and hold, acquire, construct, re-construct and maintain dwelling houses, commercial, industrial, scientific or other buildings that are necessary or desirable for the carrying out of the functions of the Board;
- (c) lease, mortgage or pledge or sell any house, Ace, industrial, commercial, scientific or other building or landed property vested in, acquired or owned by the Board;
- (d) lease, mortgage, or pledge or sell any house, office, industrial, commercial, scientific or other building or landed property vested in, acquired, or owned by the Board ;
- (e) enter into agreements with any person or body, corporate or incorporate, for the construction maintenance or repair of any immovable property vested in, acquired, owned or managed by the Board;
- (f) take over and hold, acquire, construct, reconstruct, maintain or repair any works, plants, machinery, equipment or apparatus necessary for the provision of electricity, water, access roads, sewage, incinerators or other sanitary services in, for, or in connection with any building, structure, or other landed property vested in, owned or managed by the Board;
- (g) prepare and execute Housing Development Schemes within the State in accordance with a Development Master Plan approved by Government;
- (h) take over and hold, acquire, sell or otherwise dispose of moveable property in connection with the performance of its functions under this Edict;
- (i) act as agent for the Government or any governmental body as respects the takeover, purchase, management, lease mortgage, pledge, sale or disposal of any landed property, estate or interests therein;
- (j) establish a saving and loan scheme for the purpose of utilising the funds generated thereby for granting loans, long term loans to the general public or to particular persons or institutions for the acquisition of land and other immovable property and for the construction and development of residential offices, industrial, commercial, scientific and other accommodation.

PART IV—FUNCTIONS AND POWERS OF THE BOARD IN RESPECT OF ELECTRIFICATION

1. The functions of the Board shall be:—

- (a) to take over, establish and manage electricity undertakings and installations in the rural and other areas of the State where the National Electric Power Authority does not supply electricity, for the consumption of the public and for domestic, commercial, industrial, scientific and other

uses;

(b) to carry out research into existing and new methods of generating cheap and reliable supply of electric power and to implement the results obtained thereby for the purpose of carrying out its functions.

2. For the purpose of carrying out its functions under this Edict in Powers, respect of electrification and subject to any Federal Law touching thereto the Board shall have power to:-

(a) take over, construct, re-construct, operate and maintain electric generating stations, including thermal, hydro-electric, solar or nuclear, transmission and distribution lines, transformer stations and all other stations, building works and other structures necessary for the carrying out of its functions;

(b) extract water from any lake, pond, dam, spring, river, stream and other natural sources provided that the Board shall ensure that polluted water is returned to such lake, pond, dam, spring, river or natural sources after use;

(c) generate, collect, transmit, distribute, supply and sell electricity to individual consumers or consuming units in the rural and other areas of the State;

(d) take over, acquire, manufacture, connect, maintain, repair, sell, let, hire or remove any electric lines, fittings, instruments, apparatus, plants and other electric machinery;

(e) maintain shops, showroom and other buildings or structures for the display, sale or hire electric equipment and instruments referred to in sub-paragraph (d) of this paragraph;

(f) suspend the supply of electricity for such periods as may be necessary for the carrying out of inspection, test, repairs and the making of new connections and for the purpose of this subparagraph the Board shall not be under any obligations to pay damages or compensation for loss, damage or inconvenience to any consumer through any suspension, failure, discontinuance on whole or partial interruption of the supply of electricity, however caused;

(g) enter after giving notice where practicable by its servants, officers or agents with all necessary workmen, on any lands for such reasonable time and execute and do all such work and things as may be necessary for the purpose of carrying into effect the provisions of this Edict, including the following:-

(i) the surveying and taking of levels;

(ii) the construction, placing maintenance, examination, repairs, alterations or removal of any electric or main transmission lines;

(iii) the cutting and removal of each or side of any proposed or existing electric or main transmission line of all such trees and underwood as may interfere or be likely to interfere with the construction or proper working of any such line;

(iv) attaching to any wall, house or other building any bracket or other suitable fixtures required for the carrying or support of an electric or main transmission line or any other electric apparatus;

(v) any other work connected with the supply of electricity.

Provided that any electric or main transmission line placed across or over any road, land, building, shall be so placed as not to interfere with the passage along such road, land or building or constitute any risks or danger to life or property.

3. Before constructing a new electric or main transmission line across Notice of in- any land or attaching any fixture to any building the Board shall observe the following procedure:-
construct

(a) where practicable the Board shall serve on the occupier of the land or building, notice, which shall be in writing giving a description of line the nature of the transmission line or fixture and the manner in which it is intended to be constructed or attached;

(b) if within thirty days after the service of such notice referred to in sub-paragraph (a) of this paragraph the occupier fails to lodge an objection with the Board in writing to the work specified in the notice, the Board may proceed with the work.

4. If the owner of any land or building across or on which an electric Alteration of or main transmission line or fixture has been constructed or attached requires the position of such electric or main transmission line to be altered, the Board may alter the position subject to such conditions as it may deem reasonable.

5. —(1) The Board shall not without first having obtained the approval of the Governor in writing, place any electric cable across any navigable river or navigable waterway whether such cable is placed above or below water or under the ground.

(2) Where such approval is given the Board shall publish a notice declaring the delineated area to be a prohibited area for anchorage in the case of a cable placed below water and restricting the height of vessels which may pass through the area in the case of a cable placed above water.

(3) If any person requires the position or height of such cable placed across such navigable river or waterway to be altered, the Governor may issue directives to the Board to alter the position or height of the cable, subject to conditions, which failing agreement between the parties, may be prescribed by the Governor and the cost of such alteration shall be paid to the Board by the person or body requiring the alteration and the Board shall not be compelled to carry out the alteration until the payment of the cost thereof have been made.

6. In the exercise of the powers conferred by sub-paragraph 2 of this Part the Board by its

servants, officers or agents shall do as little damage as is necessary and the Board shall pay any compensation for any damage done to any buildings, roads, crops or economic trees.

7. In the case of a dispute as to the amount of compensation payable by virtue of paragraph 6 of this Part the same shall determined by the High Court.

THIRD SCHEDULE

ENACTMENTS REPEALED

1. The Gongola State Housing Corporation Law, 1979.
2. The Rural Electrification Board Law 1979
3. The Gongola State Water Board Law, 1979.