

# CHAPTER T1 - TOWN AND COUNTRY PLANNING LAW

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FIRST SCHEDULE  
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**TOWN AND COUNTRY PLANNING LAW**

A Law to make provision for the replanning, improvement and development of different parts of Kwara State.

[NN 1963, Cap. 130. KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 28th March, 1946]

PART I

*Preliminary*

1. **Short title**

This Law may be cited as the Town and Country Planning Law.

2. **Interpretation**

(1) Definitions—

[KWS LN 1 of 1982.]

"**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 an area 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 Governor, the Authority or a local government 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 subsection (3);

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

**"hedge"** includes any tree or shrub forming 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 Governor 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"** means any road whether public or private and includes 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;

**"State"** means Kwara State of Nigeria.

(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.

(3) For the purposes of this Law each of the following operations, namely—

[KWS LN 1 of 1982.]

(a) the re-erection, wholly or partially, of any building pulled down to or below the top of the ground floor, or of any frame building of which only the framework is left down to or below the top of the ground floor;

(b) the re-erection, wholly or partially, of any building of which an outer wall is pulled down to or within ten feet of the surface of the ground adjoining the lowest storey of the building, and of any frame building so far pulled down as to leave only the framework of the lowest storey or part of such framework;

(c) the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only;

(d) the reconversion into a dwelling-house of any building which has been discontinued as or appropriated for any purpose other than that of a dwelling-house;

(e) the making of any addition to an existing building by raising any part of the roof, by constructing or altering a wall, or making any projection from the building, or making any other structural addition to the building, but so far as regards the addition only; and

(f) the roofing or covering over of an open space between walls or buildings, shall be deemed to be the erection of a new building.

## PART II

### *Planning Schemes and Planning Authorities*

### **3. Scope of planning schemes**

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.

### **4. Governor may appoint planning authorities**

- (1) Where the Governor is of the opinion that a scheme should be made for any part of the State 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.

### **5. Membership of planning authorities**

- (1) The Authority shall consist of the Chairman who shall be appointed by the Governor and the following other members—

- (a) the Chief Civil Engineer, Ministry of Works;
- (b) the Chief Medical Officer of Health, Ministry of Health;
- (c) the representative of the Ministry of Finance;
- (d) an officer of the Ministry of Justice, not below the rank of Senior State Council, appointed by the Solicitor General;
- (e) the Chief Executive Officer of the Authority to be appointed under subsection (1) of Section 6;
- (f) those persons to be appointed by the Governor of whom one shall be a representative of the local government authorities and one shall be the representative of the business community within the planning area.



(2) 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.

(3) Where the Governor appoints a local government council to be a member of the Authority such local government council may be represented by any member thereof authorised from time to time by the local government council concerned to act on its behalf and such local government council shall be bound by the acts and decisions of its member so authorised.

[KWS LN 1 of 1982 ]

(4) Where the Governor appoints a local government council as a planning authority the provisions of section 8 relating to a quorum shall not apply unless the Governor 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 Governor may approve.

## **6. Chief Executive Officer and Secretary of the planning authority**

(1) The Governor shall appoint a person to be the Chief Executive Officer of the Authority; and

(2) The Authority may appoint a member or some other person to be the Secretary of the Authority.

## **7. Names and incorporation of planning authorities**

(1) The Authority shall be given by the Governor 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" or "development 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 Governor and may sue and be sued

by the name aforesaid.

(3) The seal of the Authority shall be authenticated by the signatures of the chairman or some other member of the Authority authorised by the Authority to act in his stead in that behalf, and of the secretary to the Authority or some person authorised 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.

## **8. Conduct of business**

(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 Governor 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.

## **9. General powers of the authority**

(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 Governor 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 Governor 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) Subject to the provisions of section 6 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. Declaration of planning areas**

(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 Governor, the Governor may by order declare that the area specified in such representation shall be a planning area.

Provided that the Governor 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 Kwara State Gazette and shall take effect on the date of commencement specified therein and shall cease to have effect if within five years from such date no scheme in respect of the planning area or part thereof has been approved under the provisions of section 18.

#### **11. Interim development orders**

(1) From the date of commencement of an order declaring a planning area 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.

Provided that the Governor 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 Governor 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) Before granting any application for interim planning permission under

subsection (2) the Authority shall have regard to the provisions of any planning scheme which is being prepared under Part III.

(4) 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.

(5) Where an appeal is brought under subsection (4) the Governor may allow or dismiss the appeal or may reverse or vary the decision of the Authority, or any part thereof, and, subject to any necessary notifications, the provisions of subsection (2) shall apply in relation to the determination of an appeal to the Governor as they apply in relation to the determination by the Authority of any application made under subsection (2).

(6) An aggrieved person may appeal to the Governor against a decision made by the Authority under subsection (3) 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.

(7) The Authority may require any person to remove or to pull down any building or work in any planning area which has been erected, altered or performed without interim planning permission, or otherwise than under an order made under subsection (1) or under

a scheme as finally approved under section 18 and to reinstate the land or building to the condition in which it was prior to the commencement of such work, and if such person fails to comply with the requirements of the Authority, the Authority may itself have such work performed and recover the cost thereof from such person and, such person shall, in application to any civil liability, be guilty of an offence and liable on conviction to a fine of five thousand naira.

(8) "Interim development".—For the purpose of this section the expression "interim development" means development between the date on which the declaration of a planning area takes effect and the date of the coming into operation of the scheme.

### PART III

#### *Preparation and Approval of Schemes and Supplementary Schemes, and Variation and Abandonment of Schemes*

#### **12. Preparation of planning schemes**

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. Scope, contents and effect of schemes**

(1) A scheme may be made under this Law with respect to any land, in any 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.

[KWS LN 1 of 1982.]

(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.

[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.

[KWS LN 1 of 1982.]

Provided that when the scheme contains provisions suspending any enactment contained in a Law, the scheme shall not come into force unless a draft thereof has been enacted into law.

And provided further that the refusal of the Governor of the State to approve shall be without prejudice to the making of any new scheme.

#### **14. Obligation to give information to the Authority**

(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 wilfully 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 two thousand naira.

[No. 4 of 2006.]

#### **15. Power of entry, examination and survey for preparation of scheme**

(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 authorised in that behalf in writing by the Authority may, for the purpose of any entry, examination, survey or investigation which the Authority is authorised 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 wilfully 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 five thousand naira.

[No. 4 of 2006.]

#### **16. Preparation and publication of notice as to scheme**

(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 State 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 State Gazette during which period the said scheme shall be open to the inspection of all persons interested free of charge.

[KWS LN 1 of 1982.]

(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 the period of six weeks from the date of the notice in the State Gazette.

(b) In the case of areas within the area of authority of a local government council a notification in the manner in which the public notices of such council are made known in the area 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 State Gazette lodge with the chairman a written objection to any matter contained therein, other than an estimate of valuation.

(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 authorised agent.

[KWS LN 1 of 1982.]

(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.

## **17. Submission of scheme to Governor**

(1) Within three months of the consideration of all objections and modifications necessitated thereby the Authority shall submit the scheme to the Governor.

- (2) Every scheme submitted to the Governor shall be accompanied by—
- (a) an estimate of the number of persons who will be dishoused 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 dishoused persons.

#### **18. Order of Governor**

(1) The Governor 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 State Gazette.

(3) Notification of the approval or rejection of any scheme under subsection (2) shall be conclusive evidence that such scheme was duly framed or rejected, as the case may be.

#### **19. Scheme non-effective until approved**

(1) A scheme shall not have effect unless and until it is approved by order of the Governor, and before giving his approval the Governor may make such modifications thereto as he thinks fit.

(2) A scheme when so approved shall have effect as if enacted herein.

#### **20. Supplementary schemes**

(1) In any case where a scheme prepared under the provisions of this 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.

(2) A scheme prepared under subsection (1), 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. When scheme deemed to be rejected**

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.

#### **22. Deposit of scheme after approval**

When a scheme has been approved by the Governor 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.

#### **23. Abandonment of scheme**

(1) At any time after approval of a scheme has been notified under section 18, the Authority may, with the consent of the Governor and for reasons which the Governor considers satisfactory, abandon the scheme or any part thereof and thereupon such abandonment shall be notified in the State 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 reinvest 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 Governor 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*

**24. Supplementary orders**

(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 Governor 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.

**25. General development orders**

(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 Governor.

(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 Governor for such an order to be made.

(4) A general development order may be revoked or varied by a subsequent general development order.

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

(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. Provision for execution of scheme**

Where the scheme has been approved in respect of a planning area, the Authority shall be responsible for executing and enforcing the scheme.

**28. Power to enforce and carry into effect schemes**

(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 being 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 taken effect, put to any use which contravenes any provision of the scheme, reinstate the land;

(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 two thousand naira.

[No. 4 of 2006. |

## **29. Power of entry and survey for carrying out a scheme**

Any person authorised 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.

## **30. Penalty for obstruction**

Every person who wilfully 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 five thousand naira.

[No. 4 of 2006.]

## **31. Penalty for contravention of scheme**

Any person who wilfully does any act which is a contravention of a provision

contained in a scheme shall be liable, on summary conviction, to a fine of ten thousand naira and in the case of a continuing offence, to a further fine of two thousand naira for every day during which the offence continues.

[No. 4 of 2006.]

## PART V

### *Acquisition and Disposal of Land for Schemes*

#### **32. Power to purchase land**

(1) The Authority may, for the purpose of the execution of the provisions of this Law, purchase any land in the 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 eight per centum per annum or such lower rate as may be agreed upon.

#### **33. Determination of leases**

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 38 or 46.

#### **34. Vesting of land acquired and payment of compensation**

(1) Where an approved scheme provides for the acquisition of any land by the Authority such land shall vest in the Authority as the agent for the Governor and subject to his direction 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 38 or 46.

(2) When any land situate in a planning area but not included in a scheme is to be acquired under the provision of section 32 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 buildings 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 38 or 46.

(3) Upon service of a notice as in subsection (2) the provisions of section 35 shall apply to such land as if provisions for the acquisition of the same have 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.

### **35. Surrender of possession**

(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 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.

### **36. Payment of compensation if no objection to offer under section 34 (4)**

(1) If for sixty days after the service of a notice under section 34 (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.

**37. Reference of certain matters in court**

(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.

**PART VI**

*Compensation and Betterment*

*Compensation*

**38. Compensation for injury or abortive expenditure**

(1) Subject to the provisions of this Law, any person—

(a) whose property within the area to which the scheme applies 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 28, subject to the provisions of subsection (3) of section 40,

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 this scheme, account shall not be taken of any additional injurious affection of the property by reason that since the commencement of this Law the Governor 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 Governor has imposed any conditions on the grant of such an application made since that date.

### **39. No compensation in certain classes of cases**

(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 when the order declaring a planning area under section 10 has taken effect 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 the 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 of 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 when an order declaring a planning area under section 10 has taken effect 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 when an order declaring a planning area under section 10 has taken effect 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) General powers of Authority to pay compensation.—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 corresponding offices of that local government council, or in any officer or servant of the Authority.

#### **40. Exclusion or limitation of compensation in certain other cases**

(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—

(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.

(3) A person shall not be entitled to recover compensation under this Law in respect of any action taken by the Authority under section 28 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) "existing building".—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.

#### **41. Date on which compensation is calculated**

When an area has been declared a planning area under the provisions of section 10, the value of the 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 the date when such declaration took effect.

#### **42. Making of claims for compensation**

(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*

#### **43. Recovery of betterment from owners of property increased in value**

(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.

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*

#### **44. Determination of claims and recovery of amounts due**

(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
- (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.

45. ....

[No. 4 of 2006.]

#### **46. Reference to court for decision in any matter affecting a scheme**

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.

47. ....

[No. 4 of 2006.]

48. ....

[No. 4 of 2006.]

49. ....

[No. 4 of 2006.]

50. ....

[No. 4 of 2006.]

51. ....

[No. 4 of 2006.]

#### **52. Legal proceedings**

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.

[No. 4 of 2006.]

53. ....

[No. 4 of 2006.]

#### **54. Notice of action against the Authority**

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 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.

#### **55. Evidence of Authority's approval**

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 purporting to express such approval or consent, signed by the chairman or by any officer of the Authority generally or especially authorised by it in that behalf, shall be sufficient evidence thereof.

#### **56. Signing of notices**

(1) Every notice required or authorised 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 by any officer of the Authority generally or specially authorised by it in that behalf.

(2) Any such notice shall be deemed to have been duly signed if it purports to bear the signature of the chairman, or such other officer as aforesaid.

#### **57. Service of notices and documents**

(1) Every notice, order or other document required or authorised 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) Service upon an Authority shall be effected by delivering the same or by sending it by registered post addressed to the Chairman of the Authority.

[KWS LN 1 of 1982.]

(3) A notice, order or other document required or authorised 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*

#### **58. Authority may accept property or other assistance**

(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 monies from whatever sources received by the Authority shall become part of the funds of the Authority.

#### **59. Regulation of finances**

(1) The Governor 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 the State 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 Governor may direct shall apply to such Authorities.



(2) Where the Governor 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 Governor 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 Governor 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 any such direction or further directions.

### *Rating*

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

(1) An Authority, with the approval of the Governor, 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 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.

[KWS LN 1 of 1982.]

(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;
- (c) shall determine the date on which the first payment of such rate shall become due.

(3) The local government council 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 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 Governor, 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.

**61. The rate to be paid quarterly**

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.

**62. Liability for and recovery of rates**

- (1) The following persons shall be liable for the payment of the planning rate—
  - (a) in respect of all land or premises to which the Land Use Act 1978 applies, the occupier of the land or premises, not exempt from the planning rate; and
  - (b) in all other cases the owner and occupier of land or premises not exempt from 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.

[No. 6 of 1978, KWS LN 1 of 1982.]

(2) If any person fails to pay any planning rate for which he is liable within one month after the same became payable the local government council 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.

**63. Payment of monies and deposit in bank**

A local government council 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*

**64. Estimates**

(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 monies 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 1st day of January in any year and the estimates mentioned in subsection (1) shall be forwarded for approval to the Governor on or before the 1st day of October in any year.

(3) On consideration of the estimates so submitted the Governor 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 Governor 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 Governor first obtained.

(5) Where the Governor 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 Governor has disapproved of estimates as a whole or has disapproved of any item or items in an estimate and subsequently approves such estimates or such item or items or subsequently approves amended or varied estimates or an amended or varied item or items then such 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.

#### **65. Supplemental estimates**

(1) An Authority may at any time prepare supplemental estimates to provide for unforeseen or urgently required expenditure containing—

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

(2) Such supplemental estimates shall be forwarded without delay to the Governor and the provisions of subsections (3), (4), (5) and (6) of section 64 shall apply to such supplemental estimates as if they were the annual estimates.

#### **66. Approved estimates binding an Authority**

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

Provided that the Governor may authorise the expenditure of money appropriated for any one 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 Governor, 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 Governor.

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 therefore has been made in the estimates or supplemental estimates for such year, the Governor may approve such expenditure, and the approved estimates or supplemental estimates shall be amended accordingly.

### *Accounts*

#### **67. Accounts and audit**

(1) An Authority shall keep accounts of the transactions of the Authority to the satisfaction of the Governor.

[KWS LN 1 of 1982.]

(2) The accounts of any Authority shall be audited and reported upon in every year by the Auditor-General.

(3) The Auditor-General shall submit a certified copy of the accounts and his report thereon to the Governor.

#### **68. Bad debts**

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

### *Contributions to General Revenue*

#### **69. Governor may direct an Authority to pay funds into general revenue**

In addition to and not in derogation of the other powers in this Part conferred upon the Governor, where an Authority is regulating, controlling and managing its own finances under the provisions of section 59 the Governor may from time to time order that any such Authority shall pay into the general revenue or other funds of the State 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 the State 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.

## *General*

### **70. Power of borrowing**

(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 Governor.

(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.

### **71. Power to buy and sell**

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.

### **72. Power to accept debentures and mortgages**

An Authority may accept debentures and enter into mortgages by way of security for monies owing to the Authority.

### **73. Bank account**

(1) Subject to the provisions of this Part all monies paid to an Authority shall forthwith be paid into such bank or banks as may from time to time be approved by the Governor or by direction of the Governor be paid, in a similar manner, into any local treasury, local government treasury or other suitable depository.

(2) All orders or cheques against the said account shall be signed by the Chairman and the Chief Executive Officer or by such other officer or person as may be authorised by the Authority on their behalf.

### **74. Investments**

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 Governor and an Authority may from time to time, with the like approval, sell any or all of such securities.

**75. Power to make and perform contracts, etc.**

(1) The Authority may enter into and perform all such contracts as it may consider necessary or expedient for the purposes of carrying out any of its powers and duties.

(2) Any contract or instrument which, if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed on behalf of the Authority by its Chief Executive Officer, its Secretary or by any person generally or specially authorised by the Authority for that purpose.

**PART XI**

**Miscellaneous  
Rehousing Scheme**

**76. Rehousing of displaced persons**

(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 Governor for approval under this Law.

(2) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed on behalf of the Authority by its Secretary or by any person generally or specially authorised by the Authority for that purpose. The Governor may by order abolish any planning authority appointed under this Law and may order that the assets and liabilities of

such planning authority shall vest in any other planning authority appointed under this Law in such other manner as he may think fit.

(3) Every rehousing scheme shall be submitted to the Governor who may either sanction it, with or without modification, or refuse to sanction it.

(4) 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. Redistribution of holdings**

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

- (a) the amalgamation for the purpose of the redistribution of all holdings, whether belonging to private owners or to public bodies, and land subject to the Land Use Act, 1978 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;



(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.

[No. 6 of 1978, KWS LN 1 of 1982.]

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#### **78. Redistribution scheme and surrender of holdings**

(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 lands subject to the Land Use Act the Authority shall hold all such lands as the agent of the Governor and subject to his directions.

[KWS LN 1 of 1982.]

(2) The Authority shall make in favour of each person entitled by the scheme to a final holding a fresh grant of the area 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*

#### **79. Transfer to the Authority of powers of local government or Permanent Secretary**

(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 State 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 exerciseable and devolving upon a local government council or other authority or the Permanent Secretary 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 Permanent Secretary 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 Governor, call upon the local government council, other authority or the Permanent Secretary, 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 alternation of existing streets, and the probable direction and nature of the development of the area.

#### *Authorities May require others to Execute Parts of the Schemes*

#### **80. Scheme may state who is to execute portion of it**

(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.

#### *Offences*

## **81. General offences**

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 into 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 authorised 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 five thousand naira or to imprisonment for six months or to both such fine and imprisonment.

[No. 4 of 2006.]

## **82. Contravention of regulations**

Any person who—

(a) acts in contravention of any regulation made under the provisions of this Law; or

(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 five thousand naira or to imprisonment for six months or to both such fine and imprisonment.

[No. 4 of 2006.]

## **83. Compensation to be paid by offenders for damage caused by them**

(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*

#### **84. Regulations by the Governor**

(1) The Governor 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;

(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 State Gazette shall have the same force and effect as if they had been enacted herein.

#### **85. Regulations by an Authority**

An Authority may, with the approval of the Governor, make regulations with regard

(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;
- (d) the payment to the Authority of fees by any person in respect of—
  - (i) an application for interim development permission submitted by them under section 11;
  - (ii) an application for permission to develop submitted by him under section 26;
  - (iii) the consideration by the Authority of any building plans or other documents submitted by him under this Law; and
  - (iv) any services rendered to him by the Authority in the execution of any of its powers and duties under this Law.

## FIRST SCHEDULE

[Section 13.]

### 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.
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;
- (e) 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 buildings 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 sub-division of land until a plan showing the sub-division 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.

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.

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

## SECOND SCHEDULE

[Section 48.]

### *Originating Summons*

In the High Court of Kwara State  
In the Matter of the Town and Country Planning Law (Cap. T1).

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  
Authority for the determination of the following matters:

SECOND SCHEDULE—*continued*

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.)

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CHAPTER T1

TOWN AND COUNTRY PLANNING LAW

SUBSIDIARY LEGISLATION

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No Subsidiary Legislation

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